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Agreement No. 201224

**MARINE TERMINAL LEASE AND OPERATING AGREEMENT
FOR
PORT CANAVERAL, FLORIDA, UNITED STATES OF AMERICA**

Between

CANAVERAL PORT AUTHORITY

And

GT USA LLC



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THIS MARINE TERMINAL LEASE AND OPERATING AGREEMENT is entered into, executed and delivered as of June 23, 2014, subject to the conditions subsequent set forth in the definition of Effective Date in Section 2.1 hereof), by and between **CANAVERAL PORT AUTHORITY**, a body politic and corporate existing under and by virtue of the laws of the State of Florida, whose mailing address is 445 Challenger Road, Suite 301, Cape Canaveral, FL 32920 (the "**Authority**"); and **GT USA LLC**, a Florida limited liability company, having a U.S. mailing address for purposes of this Agreement at c/o Corporate Services Company, 1201 Hays Street, Tallahassee, FL 32301 ("**GTUSA**"). Authority and GTUSA are at times hereinafter referred to respectively as a "**Party**" and collectively as the "**Parties**."

This Agreement is made under the following circumstances:

A. Authority is the owner of certain real property in Brevard County, Florida comprising the Canaveral Port District, also known as Port Canaveral (the "**Port**").

B. GTUSA is 100% owned by GT Americas Corp., a Delaware corporation ("**Gulf Americas**"), which corporation is 100% owned by GT International Limited FZC, a company incorporated in the Hamriyah Free Zone, Sharjah, United Arab Emirates ("**GT International**").

C. In connection with the growth and development of the Port, Authority desires that first-class marine terminal facilities for the handling of containerized freight primarily, but also break bulk, bulk and other cargoes (collectively, the "**Port Terminal Facilities**", including the Authority Capital Improvements as shown in Exhibit B hereof, and the installations to be made by GTUSA in accordance with Exhibit F hereof), be constructed, managed and maintained pursuant to this Agreement.

D. Largely due to GTUSA's being an affiliate of Gultainer Company Limited, a global ports and logistics conglomerate registered in the Emirate of Sharjah, UAE, and based in the United Arab Emirates, with more than 37 years of international experience in port terminal operations, including the handling of containerized and other cargoes shipped or moved to, from or within port terminals, Authority desires GTUSA to provide the Services and other obligations set forth in this Agreement, and GTUSA agrees to do so, subject to the terms and conditions herein.

E. This Agreement constitutes both a lease of the Premises by Authority to GTUSA, and a marine terminal management and operations contract between the Parties, provided, however, that the roles of GTUSA hereunder, whether as lessee or terminal manager, are intended to be consolidated in GTUSA as a single entity, and shall not be separately delegable, assignable or divisible in whole or in part, whether *de facto* or *de jure*, without the express prior written approval of Authority per Article XII hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and with the intention to be legally bound hereby, the Parties agree as follows:

Article I

INITIAL MATTERS

1.1 **Incorporation Of Recitals.** The Parties hereby acknowledge the accuracy of the foregoing recitals, and incorporate the same as substantive provisions of this Agreement.

1.2 **Compliance and Conflicts with Law, Port Tariffs, Etc.** Each Party shall comply with the Law in effect from time to time during the Term applicable to the Port or any aspect of this Agreement, including regulations of the United States Coast Guard. Should changes in applicable Law first occurring during the Term conflict with any provisions of this Agreement, the latter shall be deemed changed to the minimum extent necessary to conform to the changed requirements of Law, provided, however, that, in the event that such change would so materially impair operations of the Port terminal Facilities or significantly alter the economic benefits to either or both of the Parties, and thereby render this Agreement manifestly unfair to either or both of the Parties, then the Parties shall negotiate over a 30-day period in good faith the revision of this Agreement in a mutually acceptable and lawful manner, and as minimally as is commercially reasonable, failing which either Party may provide 90 days' written notice of termination of this Agreement to the other party and the rights of each Party upon termination will be as set forth in Section 4.2. Further, GTUSA shall observe, and agrees that all vessels within the Port for any activities in connection with the Port Terminal Facilities shall be subject to all Authority tariffs, policies, rules and regulations in force from time to time during the Term. Authority's tariffs, policies, rules and regulations, and such future changes therein as Authority may enact from time to time, are now and shall hereafter be available on Authority's website at <http://www.portcanaveral.com>, and GTUSA hereby agrees to be bound by and to observe the same at all times during the Term. In the event Authority's rules and regulations conflict with the provisions of this Agreement, the provisions of this Agreement shall prevail to the extent allowed by Law. Authority agrees that it will not promulgate any new or revised rules or regulations that would materially and significantly impede and adversely affect the ability of GTUSA to operate the Port Terminal Facilities and perform its obligations with respect thereto in accordance with this Agreement.

1.3 **FMC Filings.** The Parties specifically agree that this Agreement will be filed in its entirety with the FMC for review and processing pursuant to the federal Shipping Act of 1984. The same, without rejection by FMC, shall constitute a condition subsequent to the continuation of this Agreement, and such filing and the likelihood of publication of this Agreement or parts hereof by FMC in the Federal Register or other media shall not constitute a violation of the confidentiality or any other provisions of this Agreement.

1.4 **Exclusivity; Non-Competition; Conditional Throughput Reserve Option.** Except as otherwise expressly provided in this Agreement, including in Section 6.5 and this Section 1.4, and provided that no default by GTUSA hereunder has occurred and is continuing, Authority hereby agrees that, during the Term, GTUSA shall have exclusivity in the Port for the handling of containerized cargoes, including provision of the Services for such containerized cargoes. Accordingly, Authority shall not enter into any new leases or other arrangements whereby any parties will be granted the right to engage or otherwise compete with the aforementioned exclusivity rights of GTUSA in the Port, except as follows: (a) in the event that one or more third-party handlers of containerized cargoes reasonably object to GTUSA's exclusivity rights hereunder, and any of same have similar containerized cargo experience, qualifications and financial wherewithal reasonably acceptable to Authority, then Authority may at its option grant such rights to such a third party handler(s), competitive with

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GTUSA's containerized cargo handling exclusivity, in a Port area(s) outside of the Premises and the Piers, and without the benefit of any cranes provided by Authority, for a reasonable percentage (not to exceed fifteen 15 per cent) of the total volume of containerized cargoes in the Port, such volume to be based upon the higher of a minimum of 150,000 TEU, or the actual TEU in the most recently completed Lease Year (the "**Conditional Throughput Reserve Option**"), whereupon the actual TEU of such third-party handler(s) shall be credited to GTUSA toward its TEU for Minimum Throughput Volume purposes hereunder; and (b) the provisions of this paragraph shall not affect or limit the operations of any Person or its future successors and assigns having lease or other rights as of the date of this Agreement to handle containerized cargoes in the Port (including Ambassador Services Inc. and Morton Salt, and also including Lehigh Hanson, which may backhaul containers for its own product into the Port). In any event, the rights of and benefits to GTUSA under the provisions of this paragraph shall cease and terminate upon GTUSA's failure to meet the Minimum Throughput Volume in compliance with Section 6.5 herein, or upon the occurrence of a default by GTUSA that is not cured within any applicable cure period provided for herein.

GTUSA shall be free to provide services and operations at any other port; provided, however, that, during the first five (5) years of the Term, in the State of Florida GTUSA shall use its best efforts in the State of Florida to primarily and preferentially focus on container throughput volume at the Port, and on achieving or exceeding Minimum Throughput Volume under this Agreement. Further, if GTUSA or one or more of its parent, subsidiary or affiliated entities or partnerships (in which GTUSA is an active partner in the specific port operation), or their respective owners, members, managers, shareholders, directors, or officers, provides container terminal services in another port in the State of Florida during the Term and, at any time when such container terminal services in another port are conducted, either (a) GTUSA's container throughput volume at the Port materially (meaning more than 10%) decreases in any Lease Year compared to the immediately preceding Lease Year or (b) GTUSA fails to achieve the Minimum Throughput Volume for any Cumulative Period under Section 6.5 that runs concurrently, in whole or in part, with any time that GTUSA is providing container terminal services in another Florida port, then, in each such instance, the Parties shall confer with reasonable diligence and cooperation, and in good faith, to seek a mutually acceptable resolution of the aforementioned situations "a" and/or "b" (as applicable), commencing no later than sixty (60) days after Authority's written demand, and continuing with such regularity as is reasonably necessary to optimize the prospects of achieving a resolution. The foregoing provisions of this paragraph shall not apply at all times during which GTUSA reaches and maintains container throughput volumes at the Port at 500,000 TEU or more annually or in which such decrease is indicative of the published container throughput volumes experienced at comparable ports in the State of Florida. If in any instance either of the aforementioned situations "a" and "b" remains unresolved for twelve (12) months after Authority's demand notwithstanding the Parties' efforts as aforesaid, then Authority shall have the unconditional right and option to solicit third party terminal operators to grow container throughput volume, and/or to terminate GTUSA's containerized cargo exclusivity under this Section 1.4, provided that all other terms and conditions of this Agreement would otherwise remain unchanged.

1.5 Hinterland Development Efforts. Authority hereby agrees to market development of inland ports, distribution and logistics centers in hinterland localities within and outside Brevard County, Florida, to support overall terminal and cargo volume success at the Port. Authority and GTUSA will meet annually, at a mutually agreed time within sixty (60) days before or after the anniversary of each Lease Year, at Authority's offices or another mutually agreed place, to discuss and decide upon an Authority marketing and advertising budget and strategy for such hinterland development efforts during the next year. Authority hereby commits

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to (a) expend \$150,000 (to be increased or decreased each according to changes in the CPI) during each Lease Year for advertising the Services in connection with containerized cargo handling, (b) provide the approximate equivalent of one (1) full-time marketing person each Lease Year to promote such Services and such hinterland developments, and (c) make reasonable good faith efforts to attract to or for the benefit of the Port distribution centers, logistics companies, and the like, and to develop inland ports located in other strategic distribution center regions in Florida.

1.6 **Grants and Other Government Support.** Authority commits to provide its good faith and reasonable efforts to assist GTUSA's private efforts to pursue grants and other governmental support such as tax incentives, economic development or other business incentive programs, and training costs and other expenses.

1.7 **Security Deposit.** Upon execution of this Agreement, GTUSA shall deliver to Authority payment of one month's Rent to be held by Authority as security deposit. The security deposit shall be applied to the first month's Rent hereunder, commencing on the Rent Commencement Date. If this Agreement is terminated because the conditions subsequent set forth in the definition of Effective Date in Section 2.1 are not met, then the security deposit shall be returned to GTUSA by Authority.

Article II

DEFINITIONS AND RULES OF CONSTRUCTION

2.1 **Definitions.** In addition to other defined terms provided in this Agreement, as denoted by quotation marks, the following terms when used herein shall have the meanings stated or referred to in this Section 2.1. The Parties agree to be bound by all agreements, requirements and obligations stated below as being applicable to these defined terms, respectively:

"**Applicable Taxes**" are defined in Article VII.

"**Authority Capital Improvements**" are defined in Section 5.1.

"**CFIUS**" means the Committee on Foreign Investment in the United States, an inter-agency committee of the United States government authorized to review transactions that could result in control of a United States business by a foreign person(s).

"**Conditional Throughput Reserve Option**" is defined in Section 1.4.

"**CPI**" means "**The Consumer Price Index (New Series) (Base Period 1982-84=100) (all items for all urban consumers)**" issued by the Bureau of Labor Statistics of the United States Department of Labor, New York, New York (the "**Bureau**"). If the CPI Index ceases to use the 1982-84 average equaling 100 as the basis of calculation, or if a change is made in the term, components or number of items contained in said CPI Index, or if the CPI Index is altered, modified, converted or revised in any other way, then the CPI Index shall be adjusted to the figure that would have been arrived at had the change in the manner of computing the CPI Index in effect as of the date of this Agreement not been made. If at any time the said CPI Index shall no longer be published by the Bureau, then Authority may designate any reasonably

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comparable index issued by the Bureau, or by a similar agency of the United States issuing similar indices, to be used in lieu of the CPI Index for purposes of this Agreement.

"Cranes" means the two (2) used Koch post-panamax ship-to-shore container gantry cranes as more fully described on Exhibit D.

"Cumulative Period" has the meaning set for in Section 6.5.

"Effective Date" means the first date on which all of the following matters have occurred, which shall be no later than 120 days after the date of this Agreement (subject to extension by approval of the Authority, which approval shall not be unreasonably withheld in the event of delays attributable to FMC or CFIUS applications); if the Effective Date has not occurred by such 120th day, then either Party may terminate this Agreement upon 10 days' written notice to the other Party (neither Party to have any claim against the other for any costs or expenses incurred by such Party in connection with this Agreement, excluding costs or expenses for payment of which a Party is expressly responsible under this Agreement, including but not limited to Applicable Taxes, attributable to the period preceding such termination):

(a) initial formal approval and, upon the occurrence of the following conditions, subsequent confirmation of this Agreement by Authority's Board of Commissioners, in accordance with Authority's charter and the relevant requirements thereof, and formal approval of a manager of GTUSA;

(b) Authority has given written notice to GTUSA that the Financial Security required by Section 5.6 herein has been received and approved by Authority;

(c) this Agreement has been filed by Authority with the FMC no later than July 14, 2014 and deemed effective, without rejection, upon expiration of the period for its review by the FMC pursuant to the Shipping Act of 1984;

(d) no later than July 31, 2014, GTUSA has filed with CFIUS a voluntary notice of this Agreement and the transactions contemplated thereunder pursuant to 31 C.F.R. § 800.401 (which notice shall not be withdrawn by GTUSA or any GTUSA Affiliate without prior consultation with Authority, *provided, however*, that any such withdrawal shall unconditionally entitle Authority to unilaterally terminate this Agreement upon notice thereof to GTUSA, except that, if GTUSA effects such a withdrawal solely to correct a previous CFIUS filing pursuant hereto, gives Authority within three (3) business days after such withdrawal a written notice thereof and of GTUSA's intention to make a corrected filing with CFIUS within thirty (30) days after such withdrawal, and in fact makes such a corrected filing within thirty (30) days after such withdrawal, then the foregoing termination right of Authority shall not apply), and GTUSA has delivered to Authority proof of (i) all submissions by GTUSA to CFIUS and evidence of CFIUS approval (whether affirmative approval, default approval under relevant Law, or the rejection of the review by CFIUS due to transaction under this Agreement not constituting a "covered transaction" for CFIUS purposes), and (ii) GTUSA's receipt of all Permits then required under Law for the conduct of the activities GTUSA is to perform under this Agreement, and in response Authority has given written notice to GTUSA that these requirements "i" and "ii" have been satisfactorily met (such notice to be without prejudice to Authority's rights to require that GTUSA obtain additional Permits should previous submissions prove incomplete);

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(e) GTUSA has qualified as a Marine Terminal Operator under FMC regulations (46 CFR 501 *et seq.*), and provided Authority with a copy of a written notice from the FMC assigning GTUSA a Marine Terminal Operator organization number; and

(f) the Parties have jointly memorialized the actual Effective Date by executing and delivering to each other a separate writing to that effect.

(g) GTUSA has received and is satisfied with all environmental reports relating to the Initial Premises and the Expansion Premises and GTUSA, if it determines to be appropriate, will have conducted additional environmental tests and is satisfied that the results of such tests and related reports do not provide any environmental obligations or risks to GTUSA, GTUSA's satisfaction as to these environmental matters will be based on its reasonable sole discretion. Notwithstanding any contrary provision of this Agreement, GTUSA acknowledges and agrees that Authority, by providing GTUSA or its agents or affiliates with any environmental reports, test results or data, shall not be deemed to make or have made any warranties to GTUSA or such agents or affiliates regarding any such reports, test results or data, including their accuracy or completeness. GTUSA further agrees that its reliance upon any such reports, test results or data, singularly or collectively, shall be at GTUSA's sole risk, and that Authority has advised GTUSA to consult with such United States environmental consultants as GTUSA may choose to proceed such environmental due diligence on GTUSA's behalf as such consultants may recommend or undertake for GTUSA's reliance in assessing its protection from environmental liability as a lessee of the Premises.

"Equipment" means any vehicles, tools and other equipment that GTUSA uses on the Premises in connection with this Agreement.

"Expansion Premises" means the approximately twenty (20) acres indicated as such on Exhibit C.

"Extra Expansion Premises" has the meaning set forth in Section 3.5.

"Expansion Premises Notice" means that notice referred to in Section 3.2(i).

"FCPA" means the U.S. Foreign Corrupt Practices Act (15 U.S.C. 78), as amended from time to time.

"Financial Security" is defined in Section 5.6.

"FMC" means the U.S. Federal Maritime Commission, or any successor agency(ies).

"Force Majeure" means any event, circumstance or both which has occurred and which could not be avoided, prevented, overcome or substantially mitigated with reasonable foresight, prudence or diligence, or by taking action according to Good Industry Practice, and which materially prevents, hinders, or delays performance by a Party or both Parties of obligations under this Agreement (other than monetary obligations), whether wholly or in part.

"Good Industry Practice" means that degree of competency, diligence and prudence, and those practices, methods, specifications and standards of equipment, safety and performance, which would reasonably and ordinarily be expected to be used or applied by a skilled and experienced operator engaged in, as applicable, construction, management,

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operation and maintenance of facilities, equipment or systems of a type and size similar to the Terminal, as the same may change from time to time.

"Governmental Authority" means any national, federal, state, regional, county, municipal, or local government, agency or regulatory body of or within any country of pertinence to any particular provision of this Agreement, or to any action or activity taken in accordance with such a provision, whether legislative, executive or judicial in nature, or any combination thereof.

"GT Parties" or **"GT Party"** means GTUSA and the other entities, establishments or enterprises named in Recital "B" of this Agreement.

"Initial Premises" means the approximately twenty (20) acres indicated as such on Exhibit A.

"Initial Term" is defined in Article IV.

"ISPS Code" means the International Ship and Port Facility Security Code 2002, as amended from time to time.

"Law" means any and all judicial decisions, orders or injunctions, and any statutes, constitutions, treaties, ordinances, resolutions, charters, rules and regulations (including those of Authority), codes, administrative orders, and other legal requirements of any Governmental Authority having jurisdiction over, or to the extent otherwise pertinent to, the Parties or either of them, the Terminal, any provision of this Agreement, or any action taken pursuant to such a provision (or any combination of same), in effect and as amended from time to time during the Term.

"Lease Year" means each of the respective twelve (12) month periods beginning on the Rent Commencement Date (and each anniversary thereof) and ending on the calendar day immediately preceding the next anniversary Rent Commencement Date.

"Minimum Throughput Volume" has the meaning set forth in Section 6.5.

"Non-Rent Payments" has the meaning set forth in Section 6.2.

"OFAC" means the U.S. Office of Foreign Assets Control and the Law applicable thereto.

"Pier 5" means the pier labeled number "5" on Exhibit B.

"Pier 5 Exclusivity Notice" means the notice given to Authority by GTUSA according to Section 3.1(c).

"Pier 6" means the pier labeled number "6" on Exhibit A.

"Piers" means Pier 5 and Pier 6, collectively.

"Permits" means any and all permits, licenses, consents, authorizations, approvals, registrations, grants, acknowledgements or agreements that are at any time during the Term

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required by Law in connection with any of the subject matter of this Agreement, or the respective undertakings, rights and obligations of the Parties hereunder.

"Person" means an individual, a corporation, a limited liability company, a partnership or trust of any nature, or any other kind of entity, firm, business establishment or association.

"Port Terminal Facilities" means the facilities and installations shown in **Exhibit B**.

"Premises" means the Initial Premises, and the Expansion Premises or Temporary Interim Parcel, to the extent that GTUSA has the exclusive right to use and occupy the same at the relevant point in time.

"Rent" means the specified leasehold rental amounts periodically payable by GTUSA to Authority for the exclusive lease, use and possession of the Premises.

"Rent Commencement Date" has the meaning set forth in Section 6.1.

"Services" means those services, as set out in **Exhibit E** attached hereto and made a part hereof, to be performed by GTUSA ancillary to its handling of containerized cargoes pursuant to this Agreement. GTUSA's rights to perform such services shall be exclusive to GTUSA (and not any other Person), only in connection with and to the extent of GTUSA's exclusivity rights to handle containerized cargoes under this Agreement.

"Shipping Act of 1984" means 46 U.S.C. §§ 40101 – 41309, and the provisions of the U.S. Code of Federal Regulations enacted with respect thereto, as amended from time to time.

"Structures" means structures and other fabrications erected, constructed or installed at any time on the Premises during the Term, other than the Port Terminal Facilities, whether by GTUSA pursuant to this Agreement, or by Authority pursuant to future amendments hereof, if any.

"Temporary Interim Parcel" is defined in Section 3.4.

"Term" is defined in Article IV.

"TEU" means the measurement standards customarily employed by United States ports for computing intermodal container traffic in 20-foot equivalent units, with 40-foot containers counted as 2 TEU, or the pro rata equivalents thereof.

"Throughput Payments" are defined in Section 6.3.

"USD" or **"\$"** means the legal tender of the United States of America, i.e., dollars or any successor currency.

"Users" means GTUSA's users, clients, or customers in connection with the Port Terminal Facilities.

"Utility Services" means all electrical, water and other utilities necessary for GTUSA to carry on the Services.

2.2. **Rules of Construction.** In this Agreement, except where the context requires otherwise, or there is an express provision to the contrary:

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- (a) words indicating one gender include all genders;
- (b) the singular and plural forms of words are interchangeable;
- (c) written or in writing means handwritten, typewritten, printed or electronically made, and resulting in a permanent record, provided, however, that written notices between the Parties shall be construed in accordance with Article XXII hereof;
- (d) the words "**herein**," "**hereof**," "**hereunder**," and other similar compounds of the word "**here**," when used in this Agreement shall refer to the entire Agreement, rather than to any particular provision, Article, Exhibit or Section;
- (e) the word "**including**" is to be construed without limitation unless otherwise expressly provided;
- (f) references to a person (or to a word importing a person) shall be construed, as necessary to suit the context, a Governmental Authority, an individual, an association or any other unincorporated body of persons, or a firm, partnership, joint venture, trust, company, corporation or other body corporate;
- (g) references to specific Governmental Authorities shall be construed so as to include any and all successors thereof that may take over the pertinent functions or responsibilities thereof;
- (h) references to specific Laws shall be construed as including any and all Laws which subsequently amend, extend, consolidate and/or replace the specific Laws involved;
- (i) references to specific standards, codes of practice and/or guidelines shall be construed as including any and all amendments, supplements, re-drafts and/or substitutes thereto;
- (j) references to specific agreements shall be construed as including any and all amendments, supplements, redrafts and/or substitutes thereto;
- (k) any table of contents, marginal words and headings shall not be taken into consideration in the interpretation of this Agreement; and
- (l) the respective obligations of the Parties set forth in this Agreement shall be applicable throughout the Term, except as otherwise expressly provided, or where the context would plainly dictate that a more limited time frame is intended.

Article III

LEASE OF THE PREMISES; USE OF THE PIERS

3.1 **Lease of the Initial Premises; Use of the Piers.** Authority hereby leases, lets and demises the Initial Premises to GTUSA, and GTUSA hereby leases and hires the Initial Premises from Authority, for the Term, and on, and subject to, the terms and conditions of this

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Agreement. In addition, Authority hereby grants to GTUSA throughout the Term the right to occupy and use Piers, subject to the following terms, conditions and provisions:

(a) Commencing on the Rent Commencement Date in accordance with and subject to the pertinent provisions of this Agreement (including exceptions for existing lease rights, and the Conditional Throughput Reserve Option, both as provided in Section 1.4), GTUSA's rights to handle containerized cargo at the Port and to occupy and use Pier 6 shall be exclusive. Prior to the Effective Date, GTUSA shall not have the right to operate the Port Terminal Facilities or any of the Premises, including any Piers. During the period of time between the Effective Date and the Rent Commencement Date, GTUSA may operate, if practically feasible, on the Initial Premises and Pier 6, in which case the published tariffs and rates of the Authority shall apply to GTUSA during such period of operation.

(b) Commencing on the Rent Commencement Date, GTUSA's rights to occupy and use Pier 5 shall be non-exclusive, but shall become first priority rights upon the earlier of the following occurrences, subject to the Expansion Premises Notice under Section 3.2, (i) GTUSA's throughput volumes at the Premises in any calendar month reach or exceed 15,000 TEUs, and are thereafter sustained at that level for a period of two (2) additional consecutive calendar months, or (ii) GTUSA shall present to Authority, and Authority shall in its reasonable discretion approve as viable and satisfactory, a reasonably detailed business plan and timetable for GTUSA's expansion needs at the Premises. When the first of the foregoing "i" or "ii" occurs, Authority shall promptly confirm the commencement of the subject first priority rights in writing to GTUSA.

(c) GTUSA's rights to occupy and use Pier 5 shall become exclusive (subject to the Conditional Throughput Reserve Option) when both of the following conditions have occurred: (i) GTUSA's throughput volumes at the Premises in any calendar month reach or exceed 18,000 TEUs, and are thereafter sustained at that level for a period of two (2) additional consecutive calendar months and (ii) GTUSA has given notice to Authority that the throughput volumes at the Premises under the preceding item "i" have been achieved and GTUSA desires to expand exclusivity to Pier 5 (the "**Pier 5 Exclusivity Notice**"). When the foregoing conditions "i" and "ii" have occurred, Authority shall confirm the commencement of the Pier 5 exclusivity in writing. Alternatively, the Parties may otherwise agree in an amendment to this Agreement to expand exclusivity to Pier 5 regardless of the throughput at the Premises. In the event that GTUSA has leased the Expansion Premises and GTUSA's exclusivity for Pier 5 terminates, expires or does not renew by mutual agreement or otherwise, GTUSA will have the option to terminate the lease for the Expansion Premises.

(d) Throughout the Term, Authority shall have sole responsibility for operating, maintaining, fueling, and staffing operators for the Cranes when and as needed by GTUSA, and for obtaining all applicable environmental permits relating to the use and operation thereof.

(e) Until GTUSA's rights to occupy and use Pier 5 may become exclusive as provided in this Section, current and other marine terminals at the Port shall have the right of access (including across the Expansion Premises) to Pier 5 for their ordinary course of business (subject to the first priority rights that may be applicable to GTUSA according to this Section), and to provide their own or third party stevedoring services for non-containerized cargo to ships assigned to Pier 5 by the Port harbormaster.

(f) Throughout the Term, notwithstanding any exclusivity rights of GTUSA under this Agreement, if (i) a Crane is not in active use by GTUSA and (ii) Authority notifies GTUSA that a

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general or break-bulk or bulk cargo vessel that is not an existing customer of GTUSA would like to utilize one of the Piers to unload its cargo and (iii) such activity can be conducted without unreasonably interfering with GTUSA's business and without utilization of the Premises, then Authority may temporarily assign use of a Crane(s) and a Pier(s) to such general or break-bulk or bulk cargo vessel during the period of non-use by GTUSA; provided, however, that (iv) Authority will fully indemnify, defend and hold harmless GTUSA against any third party claims in connection with any activity relating to such events, (v) Authority will first introduce such customer to GTUSA with the intention that GTUSA will promptly negotiate rates for handling such cargo from the vessel and GTUSA will provide written notice to Authority within no later than two (2) business days after learning that such customer has decided not to engage or hire GTUSA for such services and (vi) this exception to the exclusive use of the Cranes by GTUSA will be an unusual event and will cease at any time that the Expansion Area is under lease by GTUSA. In addition to the foregoing, Authority may allow temporary berthing of cruise ships and other vessels at the Piers in any emergency or other instance, without utilization of the Initial Premises, upon prior notification to GTUSA that is reasonable under the circumstances, provided that that the same does not unreasonably interfere with GTUSA's business operations and that Authority will fully indemnify, defend and hold harmless GTUSA against any third party claims in connection with such temporary berthing.

(g) Authority hereby grants to GTUSA throughout the Term non-exclusive rights of vehicular and pedestrian passage, access, ingress and egress across, to, from and between the Premises and public rights of way within or abutting the Port, along such roadways, thoroughfares and other passageways that are designed for such purposes and now or hereafter constructed within the Port, but at all times subject to any applicable tolls on public roadways and the security rules, regulations and requirements in force at the Port.

(h) Authority shall throughout the Term allow GTUSA's authorized agents and invitees free pedestrian and vehicular access to and from nearby public thoroughfares along the Port roads, driveways and other passageways designed for such purposes and now or hereafter constructed within the Port, but at all times subject to the security rules, regulations and requirements of the Port.

3.2 Expansion of the Premises via Agreement of the Parties. During the first eight (8) Lease Years, the Premises shall be subject to expansion, in a single instance and otherwise in accordance with this Agreement, by GTUSA's additionally leasing the Expansion Premises marked in the site plan on Exhibit C hereof, in the event that both of the following have occurred: (a) GTUSA's throughput volumes at the Premises in any calendar month have reached or exceeded 18,000 TEUs, and are thereafter sustained at that level for a period of two (2) additional consecutive calendar months, and (b) within thirty (30) days after the third such calendar month, GTUSA, at its unilateral option, has given prior notice to Authority offering to so expand the Premises (the "**Expansion Premises Notice**"), in which event such expansion shall occur at a time that is at least twelve (12) and no more than eighteen (18) months, at the election of Authority.

In the event of the lease of the Expansion Premises by GTUSA pursuant to this Section, the Rent for the Expansion Premises will be at the then-current rental rates for Initial Premises, and will thereafter be subject to the same annual CPI-based increases or decreases at the same time and in the same manner as the Rent for the Initial Premises as provided in Section 6.1, and such leasing shall otherwise be subject to the same Throughput Payments, Non-Rent Payments, and other terms and conditions as are applicable to the leasing and operation of the Premises under this Agreement.

3.3 Expansion of the Premises via First Refusal Option. At any time during the first eight (8) years of the Initial Term, if Authority shall receive a bona fide signed written offer from a third party that Authority desires to accept, whereby the third party seeks to lease the Expansion Premises from Authority, but always subject to the GTUSA's continuing rights under Section 3.2 (each, an "**Expansion Premises Lease Offer**"), then GTUSA may exercise a first refusal option to lease the entire Expansion Premises, in accordance with the procedures hereinafter set forth (the "**FRO**"). For the avoidance of doubt, nothing in this Section regarding the FRO shall limit or impair the rights of Authority to lease Port lands outside the Premises to a third party whose intended activities include stevedoring of non-containerized cargoes, or pursuant to the Conditional Throughput Reserve Option. Further, notwithstanding any contrary provision of this Agreement, Authority retains all rights to lease lands in the Port outside of the Premises to third party terminal operators for handling automotive, truck and equipment cargoes with roll-on, roll-off operations and processing ("**RORO**"), using Pier 5 (subject to GTUSA's Pier 5 rights as set forth in Section 3.1), or other piers not involved in this Agreement, and without GTUSA having any priority or other rights to provide stevedoring services.

In the event an Expansion Premises Lease Offer occurs, Authority shall give notice and a full copy thereof to GTUSA, stating in such notice that the submission is made in connection with GTUSA's FRO under this Section 3.3. GTUSA shall thereupon have fifteen (15) business days from the date such Authority notice is given in which to give a return notice to Authority, stating whether GTUSA elects to lease the Expansion Premises on the terms set forth in the Expansion Premises Lease Offer and in this Agreement. In the event that, within the fifteen (15) business day period aforesaid, GTUSA shall not give any return notice to Authority, or gives a return notice declining to exercise the FRO, then Authority shall have the right to enter into a lease to the third party for the Expansion Premises or portion thereof referenced in the Expansion Premises Lease Offer. In the event that the lease to the third party is consummated, then the FRO granted to GTUSA under this Section shall cease and terminate, and shall have no further force or effect whatsoever. In the event that the third party lease is not consummated for any reason, expires or terminates, then the FRO granted to GTUSA under this Section shall continue in full force and effect.

In the event GTUSA leases the Expansion Premises pursuant to this Section, the initial Rent for the Expansion Premises will be at the then-current rental rates for Initial Premises lease, and will thereafter be subject to the same CPI-based increases or decreases at the same time and in the same manner as the Rent for the Initial Premises as provided in Section 6.1, and shall otherwise be subject to the same terms and conditions as are set forth in this Agreement.

In the event that GTUSA obtains exclusive use of Pier 5 under this Agreement and then loses such exclusivity, GTUSA may provide written notice within 30 days after the effective date of the loss of such exclusivity, stating that it is terminating (at a time certain within the following 6-month period) its lease of the Expansion Premises. If that occurs, the Parties will work together in good faith to coordinate and cooperate in achieving an orderly termination of the lease for the Expansion Premises. No additional penalties or payments will be imposed or required by either Party upon exercise of this termination right.

3.4 Expansion of the Premises via Temporary Interim Parcel. In the event that, at any time prior to a commencement of GTUSA's lease of the Expansion Premises, GTUSA shall have the need for additional Authority land in the vicinity of the Premises, then GTUSA may give Authority notice of such need, identifying therein the land involved (the "**Temporary Interim Parcel**") and the period of time that GTUSA desires to lease the same. If the Temporary Interim Parcel is available, and Authority in its sole discretion is willing to lease

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the same to GTUSA, then the Parties may amend this Agreement to add the Temporary Interim Parcel as part of the Premises. It is expressly understood and agreed that (a) the initial Rent for the Temporary Interim Parcel will be the same as the then-current rental rate for the Initial Premises, and will thereafter be subject to the same annual CPI-based increases or decreases at the same time and in the same manner as the Rent for the Initial Premises as provided in Section 6.1, and shall otherwise shall be subject to the same terms and conditions as are set forth in this Agreement; (b) GTUSA's lease of the Temporary Interim Parcel shall not be deemed to constitute the equivalent of its lease of the Expansion Premises for purposes of any condition or other provision of this Agreement relating to or dependent upon GTUSA's lease of the Expansion Premises; and (c) GTUSA shall have the right to expand the Premises by the addition of the Expansion Premises pursuant to Section 3.2 after the lease of the Temporary Interim Parcel terminates.

3.5 Expansion of the Premises to the Extra Expansion Premises via Agreement. At such time as GTUSA reaches current annual container volumes over 500,000 TEU, and Authority determines that certain conditions for new expansion of terminal facilities in the Port are met and that there is appreciable demand for such expansion, then Authority may embark on expansion feasibility studies and cost estimates. Among the conditions that Authority would require to begin exploration of expansion under this Section would be the possibility of 50 feet channel depths of water, and available land in the middle basin or south side of the Port, or in Port expansion submerged lands, for the Extra Expansion Premises. Upon evaluation of the same, if Authority decides to pursue such expansion and GTUSA is then in good standing and without pending defaults hereunder, Authority shall give notice offering GTUSA a first priority right to negotiate a market lease for the new terminal facilities (the "**Extra Expansion Premises**"). GTUSA may select to lease the Extra Expansion Premises in addition to the other Premises being leased at such time, in which case GTUSA and Authority will execute a lease amendment on terms mutually acceptable to the Parties. Should the Parties proceed with such negotiations, but prove unable to negotiate such a market lease within 12 months after such notice is given, then GTUSA's first priority right under this Section shall terminate, and Authority may offer the new terminal opportunity to other parties via RFP or negotiation. GTUSA shall have the option, but not the obligation, to match the basic terms of the other parties within 30 days of such offers being presented to Authority and delivery of written notice thereof to GTUSA. Failure by GTUSA to exercise such option terminates such option indefinitely. If the Extra Expansion Premises is leased to another tenant, GTUSA's exclusivity to handle containerized cargo will not apply to the Extra Expansion Premises and will not preclude the handling of containerized cargo by such tenant at Extra Expansion Premises.

3.6 Communications Equipment. GTUSA shall have the right, throughout the Term, to install and operate wireless and telephone equipment, including but not limited to VHF and SSB telephone systems, for private communications with ships at sea, and for use in connection with GTUSA's operations under this Agreement. GTUSA agrees to reasonably cooperate to rectify any interference caused by any such GTUSA equipment with that of Authority, U.S. Coast Guard or other Governmental Authority, or any other lessee or user at the Port.

Article IV

TERM

4.1 Initial Term and Potential Renewal Terms. Subject to the further provisions of this Section, and unless terminated sooner in accordance with this Agreement, the

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term hereof (the "**Term**") shall commence on the Rent Commencement Date, and shall end on the calendar day immediately preceding the twentieth (20th) anniversary of the Rent Commencement Date (the "**Initial Term**"). Further, unless terminated sooner in accordance with this Agreement, or either Party in its sole and absolute discretion shall give the other Party notice of its intent not to so renew by the nineteenth (19th) anniversary of the Rent Commencement Date, then the Term shall be deemed automatically renewed for another ten (10) years consecutive to the Initial Term, ending on the calendar day immediately preceding the thirtieth (30th) anniversary of the next succeeding Rent Commencement Date (the "**First Renewal Term**"). If such a notice of intent not to renew is given in timely fashion, this Agreement shall terminate at the end of the Initial Term.

If the First Renewal Term occurs as aforesaid, then, unless terminated sooner in accordance with this Agreement, or either Party in its sole and absolute discretion shall give the other Party notice of its intent not to so renew by the twenty-ninth (29th) anniversary of the Rent Commencement Date, the Term shall be deemed automatically renewed (provided, at Authority's sole option in its absolute discretion, that there is no pending and uncured default by GTUSA hereunder) for another five (5) years consecutive to the First Renewal Term, ending on the calendar day immediately preceding the thirty-fifth (35th) anniversary of the Rent Commencement Date (the "**Second Renewal Term**"). If such a notice of intent not to renew is given in timely fashion, this Agreement shall terminate at the end of the First Renewal Term.

4.2 Ending of Term. Upon termination or expiration of this Agreement, whether in its entirety or as to some but not all of the lands then subject to this Agreement, or GTUSA shall, in each instance:

(a) surrender and deliver possession to Authority the lands as to which this Agreement expires or is terminated, and all buildings, fixtures and other Structures and improvements thereon, free from all liens and encumbrances, and reasonable wear and tear excepted, with Authority automatically becoming the full owner thereof free of charge, except for any thereof as (i) constitute personal property (and not real property or fixtures) acquired by GTUSA at its expense, and (ii) are removable from the lands involved easily and without damage, and are in fact so removed by GTUSA, within 60 days of termination or expiration of this Agreement. In any event, GTUSA's failure to timely remove such items from the lands involved as aforesaid, without damage to the buildings, fixtures and other Structures and improvements thereon, will automatically and unconditionally result in Authority's becoming the full owner thereof, free of charge, unless Authority disclaims succeeding to such ownership and notifies GTUSA to remove any or all of such items within such reasonable time as Authority's notification shall state. To the extent that GTUSA desires to sell to Authority any items that GTUSA has the right to remove within 60 days of termination or expiration of this Agreement as aforesaid, the Parties will need to come to a binding agreement for such sale within such 60-day period, failing which GTUSA's foregoing obligations to remove such items within such 60-day period, or have such items become Authority's property free of charge failing such removal, shall apply. GTUSA shall promptly repair at GTUSA's expense any damage occurring during the course of such removal. Ownership of anything not purchased by Authority and not removed by GTUSA in accordance with the foregoing provisions shall, at Authority's sole option, and upon Authority's notice to GTUSA, either (a) be removed by Authority and disposed of in accordance with Authority's notice, all at GTUSA's sole expense, or (b) automatically become the property of Authority free of charge. In the event that the Agreement is breached by Authority, and such breach remains uncured after applicable cure periods have expired, and by reason thereof GTUSA rightfully elects to terminate this Agreement, then GTUSA will have the right to cause the Authority to purchase such items as GTUSA has the right to remove after termination of this

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Agreement as aforesaid, at book value, as determined by certified auditors reasonably acceptable to Authority and GTUSA.

(b) promptly provide any documentation reasonably required by Authority in connection with the termination, and the Port Terminal Facilities and their operation, including utility accounts, and other matters incident to the end of the Term.

(c) reasonably cooperate in a timely manner with Authority or its designee, and comply with all reasonable instructions of the Authority, concerning GTUSA's demobilization and any handover to a successor operator, including Authority itself, so as to minimize disruption to and costs to the Authority regarding, and to optimize the continuation of, Port Terminal Facilities operations.

(d) leave the sewage facilities on the Premises in good working order, or arranges and pay all expenses of restoring those facilities to such order.

Removal by GTUSA of items in **Exhibit F**, or otherwise installed on Authority property at GTUSA's expense, any purchase of same by Authority, or any other disposition thereof, shall be subject to the provisions of subparagraph "a" above in this Section 4.2.

Article V

PORT TERMINAL FACILITIES

5.1 **Port Terminal Facilities to be Constructed.** The initial Port Terminal Facilities shall include the installations set forth in **Exhibit B** hereof to be made by and at the expense of Authority (the "**Authority Capital Improvements**") in accordance with a design plan to be prepared by engineers designated by Authority, also at Authority's expense, and adopted by mutual agreement of the Parties (collectively, the "**Approved Plans**"). Such plans and specifications, and any changes therein required by either or both of the Parties, shall be obtained by Authority and furnished in each instance to GTUSA for review and approval. All costs incurred by Authority for any changes to the Approved Plans requested by GTUSA after the original mutual agreement of the Approved Plans shall be promptly reimbursed by GTUSA to Authority in each instance upon delivery of an invoice(s) to GTUSA. Promptly upon the Parties having adopted the Approved Plans, they hereby agree to enter into a written supplement to this Agreement, identifying and itemizing the plans and specifications that comprise the Approved Plans. In any event, the Authority Capital Improvements shall be limited to those itemized in **Exhibit B** hereof.

Pending completion by GTUSA of its office accommodations in the Port Terminal Facilities, Authority shall allow GTUSA, for initial startup operations, the use of up to 4 offices in Authority's northside operations building, for up to 8 months, free of charge.

Rail yard intermodal services for the Port Terminal Facilities shall be operated by Authority unless, by separate lease and operating agreement between Authority and GTUSA, GTUSA is given and assumes operational responsibilities for those services.

5.2 **Authority's Port Terminal Facilities and Other Installations.** Authority hereby agrees, at its sole cost and expense, to provide, build and operate the following Port Terminal Facilities and other installations related to the Terminal and the Premises, the same to be in accordance with the Approved Plans to the extent covered by the same:

- (a) Pier 5 and Pier 6 and associated wharves;
- (b) the Authority Capital Improvements (subject to Authority's coordinating the timing with GTUSA's installations and the mutual agreement of Authority and GTUSA, Authority can defer portions of the paving until those installations are completed);
- (c) the Cranes to be operational to be operated by Authority by March 1, 2015; and
- (d) assuming an Effective Date of August 23, 2014, drayage rail as more particularly described and/or depicted on Exhibit A attached hereto and made a part hereof, drayage rail phase 1 anticipated to be operational by approximately March 1, 2015; phase 2 barge rail service to be operational by approximately June 1, 2015; and phase 3 rail service into the port, including all rail infrastructure easterly of the Premises, to be operational by approximately December 1, 2017. Until drayage rail phase 1 becomes operational, Authority shall provide truck and/or barge transport services to GTUSA and its customers between the Premises and the Florida East Coast Railway line facilities in Cocoa, Titusville, or Authority's proposed inland facility (as Authority designates in its sole and absolute discretion), notwithstanding the published rates by Authority, at rates competitive with the lowest charges for reasonably comparable transport services at the ports of Savannah, Jacksonville, Port Everglades and Miami, and be payable by GTUSA monthly in arrears, within thirty (30) days of Authority's invoice in each instance.

Authority shall have no obligation to provide any truck transport services or equipment for, or any construction or installations related to or for use in connection with, the Premises, beyond those specified in this Section.

5.3 GTUSA Installations; Repairs and Maintenance by GTUSA; Ownership and Authority's Reversionary Rights. GTUSA, at its sole cost and expense, will install or provide all services, improvements, equipment and other amenities from time to time needed for, or desirable for use as part of or in connection with, the Port Terminal Facilities beyond those to be constructed, installed or provided by Authority pursuant to Section 5.2, whether in accordance with the Approved Plans (or in addition thereto, subject to Authority's prior written approval in each instance, not to be unreasonably withheld, conditioned or delayed), including all maintenance and operations buildings, facilities required by Governmental Authorities involved in marine terminal operations, reefer racks and plugs, refrigerated/cold storage facilities, container cleaning areas and equipment, gates, warehouses, yard equipment, stackers, trucks, chassis, operating systems, all required material handling equipment (including reach stackers, trucks, chassis, top reaches, and other needed container or specialty cargo equipment, and all vehicles needed to perform terminal operations), rubber tire gantry and/or additional ship-to-shore cranes as needed to suitably handle freight volume and anticipated increases therein, together with a competent and properly staffed workforce at all times (whether GTUSA's direct employees, or contract labor or other independent contractors) as needed to provide a complete first class operating terminal throughout the Term. GTUSA shall use commercially reasonable efforts and Good Industry Practice to promote, and optimize the revenues of, the Port Terminal Facilities throughout the Term.

In addition to its installations covered by the Approved Plans, GTUSA, with the prior written approval of Authority in each instance (which approval shall not be unreasonably withheld, conditioned or delayed) may install or construct from time to time such additional facilities, structures or other improvements on the Premises (or alterations, subject to the further

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provisions hereof), as GTUSA deems necessary or desirable to its effective operation of the Port Terminal Facilities. Any Structures or improvements constructed or added by GTUSA to the Premises shall be maintained in a good state of appearance and repair, reasonable wear and tear excepted, and in a first class operating condition. Further still, GTUSA shall obtain the prior written approval of Authority (which approval Authority shall not unreasonably withhold), in each instance when GTUSA proposes to make any alterations of or additions to structures on the Premises that will cost \$10,000 or more, such approval to be of the alterations or additions involved, and of the contractors or other Persons GTUSA proposes to engage to make or install the same. In each instance that Authority's prior approval is required under this paragraph, GTUSA shall present its request to the Authority in writing, together with plans and specifications for construction and/or detailed descriptions of the new structures, alterations or facilities GTUSA is proposing, and GTUSA shall not commence or allow the commencement thereof until its receipt of Authority's written approval or notice to proceed, and all applicable Authority permits.

Within forty five (45) days after the completion of any approved building, structure, fabrication, or other vertical installation at the Premises, or any addition thereto, GTUSA shall, in each instance and at its sole expense, deliver to Authority for its retention an original signed and sealed set of as-built drawings.

During the Term, but without limitation of any statutory or other landlord's lien rights of Authority, GTUSA shall be considered the owner of all structures, improvements, equipment and other amenities on the Premises for tax purposes; shall pay all taxes relating to the same and the Premises itself, respectively; and (to the extent lawful to do so) shall be entitled to take income tax deductions for depreciation and other expenses of GTUSA related to same. Upon expiration or termination of the Term, title to and ownership of all buildings, structures, fabrications and other permanent improvements installed or constructed by either Party on the Premises, and all equipment or facilities that cannot be removed from the Premises without substantial damage to any piers, structures or other improvements, will be deemed automatically and unconditionally vested in Authority.

Notwithstanding any contrary provision hereof, any replacements by Authority shall in all events be limited to what Authority initially installed.

5.4 GTUSA Investments. GTUSA agrees to make the minimum investments (including via leases) set forth in the investment schedule attached hereto as **Exhibit "F"** and, in any event, shall at all times during the Term provide (to the extent not provided by Authority pursuant to **Exhibit B**) and assure efficient terminal facilities commensurate with anticipated freight volume and increases therein, including as needed rubber tire gantry and/or ship-to-shore mobile harbor cranes, foundations, power and utility improvements, expanded reefer racks, warehouses, and top reach equipment. The **Exhibit "F"** minimum investment schedule shall be subject to adjustment from time to time, whether upwards or downwards as necessary to appropriately support the Services for anticipated freight volume and increases therein, by mutual agreement of the Parties (not to be unreasonably withheld, delayed or conditioned), and the Parties agree to reasonably cooperate at all times with respect to such adjustments in order to assure that GTUSA investments are coordinated in a manner compatible with terminal customer contracts, and adjusted to meet reasonable investment needs and anticipated freight volume and increases therein, to assure that GTUSA makes capital investments commensurate with business growth opportunities for the Port Terminal Facilities. Each change in **Exhibit "F"** shall be memorialized in an additional writing, dated and initialed on behalf of each Party, and be (as applicable) physically substituted for or added to **Exhibit "F"** in original executions of this

Agreement as a part hereof.

5.5 Cleanliness of Piers. The provisions of this Section 5.5 shall be subject to Authority's tariffs, as applicable to piers in the Port during the Term, which tariffs shall be cumulative to this Section when not in conflict, and shall control over this Section in the event of conflict.

Whenever during the Term GTUSA has exclusive rights to occupy and use Piers 5 and/or 6, GTUSA shall have the responsibility and obligation to maintain such Pier in a clean and orderly manner (not including repairs or capital improvements) and incur expenses therefor in an aggregate amount not to exceed \$100,000 per year; *provided further, however*, that such GTUSA responsibility does not extend to any capital expenditure obligations of Authority or the clean-up, repair of any damage to the Piers caused by Authority or any third party not under the control of GTUSA or acting on behalf of GTUSA.

Further, in any instance of material damage to a Piers 5 and/or 6 primarily attributable to any Port tenant, licensee, user or other third party(ies) besides GTUSA and/or the other Persons covered by the preceding sentence, Authority shall take all reasonable steps to cause the affected pier(s) to be restored to a good state of appearance and repair, at the earliest practicable time and to the reasonable satisfaction of GTUSA, without expense to GTUSA. In addition, in any instance of material damage to piers 5 and/or 6 not covered by the foregoing provisions of this Section, Authority shall have the responsibility and obligation to restore the same to a good state of appearance and repair, at the earliest practicable time and to the reasonable satisfaction of GTUSA, without expense to GTUSA. It is expressly agreed that, so long as Authority performs in accordance with its obligations under this paragraph, Authority shall have no other liabilities or responsibilities whatsoever to GTUSA arising out of or in connection with the damage or restoration involved, including for business interruption or other monetary damages, except that the Minimum Throughput Volume levels will be reasonably adjusted for the period of time that the Piers are unavailable due to such damage or repair.

5.6 Financial Security for GTUSA Investment. As further assurance to Authority respecting the investment obligations of GTUSA pursuant to Section 5.4, GTUSA hereby covenants and agrees to deliver to Authority, on or before the Effective Date of this Agreement, a letter of credit in the face amount of One Million (\$1,000,000.00) Dollars and expressly providing that drafts against the same may be made at a stated location(s) in Brevard County, Florida (the "**Financial Security**"), and to uninterruptedly maintain such Financial Security (including by delivering to Authority replacement letters of credit at least thirty 30 days prior to expiration of a current letter of credit) without any lapse or cancellation, in full force and effect at all times throughout the Term, the issuer and form of the letter of credit and replacements therefor to be acceptable in form and substance to Authority, in its sole and absolute discretion, at all times. Without limitation of the foregoing, Authority shall have the unconditional right to draft against the letter of credit as follows: (a) in its full amount in the event of GTUSA's failure in any instance to deliver to Authority replacement letters of credit conforming with the requirements of this Section at least thirty 30 days prior to expiration of a current letter of credit; or (b) in the event of GTUSA's failure in any instance to timely make any monetary expenditure for which GTUSA is obligated pursuant to this Agreement, including **Exhibit "F"**, in which event Authority's draft shall not exceed the amount of the unmade expenditure involved. In each instance that Authority may draft against the letter of credit, Authority shall give notice thereof to GTUSA, whereupon GTUSA shall, within ten (10) days after such notice is given, deliver a new replacement or amended letter of credit to Authority to restore the full face amount of the Financial Security required hereunder, and GTUSA's failure

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to timely do so will constitute a default of this Agreement. Notwithstanding the foregoing provisions, the requirement that GTUSA provide the Financial Security under this Section shall cease and terminate at the earlier of the end of (a) the tenth (10th) Lease Year, or (b) the first Lease Year during which actual container throughput processed by GTUSA at the Port Terminal Facilities exceeds 300,000 TEU annually and GTUSA has made the minimum investments at the Port Terminal Facilities set forth in **Exhibit F**.

5.7 Certain Marine Services by Authority. Authority shall, at its sole cost and expense, provide GTUSA and its customers, at all times during the Term, with the following marine services: 40 feet channel depths of water, vessel traffic management, plying, un-pling, pilotage, towage, and navigation services, provided, however, that Authority's obligations under this Section shall be limited in all respects only to channels, facilities and services that are under Authority's direct control. Further, Authority shall endeavor to provide all services by Authority under this Section at reasonably competitive rates compared to other southeastern U.S. regional ports providing the respective marine services comparable to those described in this Section.

5.8 GTUSA's Terminal Tariffs and Rates. GTUSA, at its sole discretion, shall have the right to publish, amend from time to time, and apply such rules and regulations of the Port and such tariffs and rates at the Port Terminal Facilities as it deems appropriate from time to time. GTUSA shall assure that such tariffs and rates as are in effect at any given time are filed with Authority.

However, for the avoidance of doubt, GTUSA's tariffs and rates shall not affect the calculation of Throughput Payments or the amounts of other sums that are payable to Authority under this Agreement.

5.9 FMC Marine Terminal Operator Qualification. GTUSA covenants to maintain its qualification as a Marine Terminal Operator under FMC regulations (46 CFR 501 *et seq.*), and to comply with all applicable FMC regulations throughout the Term, including the filing a FMC Form FMC-1 prior to operating, filing of modifications to this Agreement and minutes of meetings discussing rates or charges in connection with this Agreement, and those regarding 5 year record retention requirements.

5.10 GTUSA's Staffing. GTUSA hereby covenants to use its reasonable commercial efforts at all times to assure that, throughout the Term after the initial period of the first six (6) months after the Effective Date during which GTUSA plans to train new employees in connection with the Services, at least Ninety (90%) Percent of its employees will consist of local residents of East Central Florida, that minimum to be maintained at all times. This covenant is a material inducement to Authority to enter into this Agreement, in furtherance of its role as a major economic engine for East Central Florida and its residents.

Article VI

RENT AND OTHER NON-RENT PAYMENTS

6.1 Rent. GTUSA shall pay to the Authority, at its address in the opening paragraph of this Agreement or such other address of which Authority may from time to time give notice GTUSA, and without reduction by offset or otherwise, the rents set forth in this Section (the "**Rent**"). GTUSA's obligations to pay Rent shall commence upon the date: (i) all of the conditions subsequent set forth in the definition of Effective Date in Section 2.1 have been met;

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(ii) all installations by Authority on or for the Initial Premises, including Piers 5 and 6, associated wharfs and the Authority's Capital Improvements, are completed in a manner suitable to GTUSA's provision of the Services, including the Cranes' being in place and functional, and such installations have been delivered to GTUSA; and, (iii) of the inauguration by Authority of truck transport services to GTUSA between the Premises and the Florida East Coast Railway (or its successors or assignees providing rail service acceptable to Authority) line facilities in Cocoa, Titusville, or Authority's proposal inland facility, as Authority designates in its sole and absolute discretion (collectively, the "**Rent Commencement Date**"). The Parties agree to memorialize the Rent Commencement Date in writing promptly after its occurrence.

The initial Rent for the Initial Premises shall be \$32,670.00 per month (\$0.45 per square foot per Lease Year, multiplied by 20 acres @ 43,560 square feet per acre, then divided by 12 months), plus all applicable State of Florida sales tax, subject to increase or decrease as provided below in this Section. The Rent shall be due and payable to Authority on or before the first day of each calendar month of the Term; *provided, however*, if the Rent Commencement Date is on any day other than the first day of a calendar month, then prorated Rent for that month shall be due and payable within five (5) days after the Rent Commencement Date. Further, if the last month of the Term is less than a full calendar month, then prorated Rent for the last month shall be due and payable on or before the first day of that month. Any late payment of Rent shall incur a late charge every five (5) days after the due date, payable immediately, as follows: if not made within five (5) days after the due date, Three (3.0%) Percent of the payment due; if not made within ten (10) days after the due date, Six (6.0%) Percent of the payment due; if not made within fifteen (15) days after the due date, Nine (9.0%) Percent; *provided, however*, that the incurrence or payment of a late charge shall not affect the occurrence of a default, and the accrual of Authority's remedies, as provided for in this Agreement.

The Rent shall be subject to increase or decrease as of each third anniversary of the Rent Commencement Date hereof, in proportion to any increase or decrease as of such third anniversary in the CPI over the CPI as of the Rent Commencement Date or the immediately preceding anniversary thereof (as applicable). For these purposes, CPI increases and decreases will first be measured on an annualized basis for the years involved, and then the cumulative increase or decrease (as applicable) for those years shall determine the increase or decrease in the Rent. If, on any anniversary of the Rent Commencement Date, the CPI has neither increased nor decreased, then the Rent will continue unchanged until the next such third anniversary. Within ten (10) days after each such third (3rd) anniversary, Authority shall give GTUSA notice of whether the Rent will continue unchanged as aforesaid or will increase to a new sum certain as of the third anniversary involved, pending the giving of which notice GTUSA shall pay when due the Rent in the same amounts as applied during the preceding Lease Year. Then, if Authority's notice to GTUSA is to the effect that the Rent is increased, GTUSA shall pay such increases for the calendar month of notice within five (5) days after such notice is given, and the increased monthly amounts of Rent thereafter be payable in full on or before the first day of each ensuing calendar month of the new Lease Year.

Rent for the Expansion Premises will be at the then-current rental rate for the Initial Premises as of the date of expansion, and shall thereafter be subject to simultaneous increases or decreases as and when the Rent for the Initial Premises increases or decreases under this Agreement.

Rent for the First Renewal Term and the Second Renewal Term, respectively, shall continue at the same Rent in effect at the end of the Initial Term or the First Renewal Term (as

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applicable), and shall continue to be subject to increase, decrease or continuation in the same manner as during the Initial Term, in accordance with the foregoing provisions of this Section, except that Rent shall be adjusted as of each third anniversary of the Rent Commencement Date.

Notwithstanding any contrary provision of this Section, CPI increases and decreases will first be measured on an annualized basis for the years involved, and then the cumulative increase or decrease (as applicable) for those years shall determine the increase or decrease in the Rent.

6.2 Non-Rent Payments. All sums that GTUSA is obligated to pay under this Agreement other than the Rent for the Premises, and every component thereof shall constitute Non-Rent Payments (collectively, the "**Non-Rent Payments**").

6.3 Throughput Payments. GTUSA shall pay container throughput royalties (the "**Throughput Payments**") to Authority for each Lease Year in the amount of Twenty (\$20.00) Dollars (as increased or decreased pursuant to this Agreement) times the actual container throughput TEU processed by GTUSA at the Port Terminal Facilities, established in accordance with Section 6.6. GTUSA shall make Throughput Payments to Authority within thirty (30) days after the end of each calendar month of the Term, commencing with the first calendar month in which both (a) any container traffic is initially handled by GTUSA at the Premises, and (b) drayage rail phase 1, as described and/or depicted on **Exhibit E** hereof, is operational. Amounts that accrue prior to termination or expiration of this Agreement shall be due and payable promptly thereafter. Each Throughput Payment due and payable to Authority shall be based on GTUSA's monthly reports (including manifests maintained by GTUSA for Port Terminal Facilities cargoes in the ordinary course of GTUSA's business) to be delivered to Authority at the same time as each Throughput Payment is made. The per TEU rate for the Throughput Payments shall be subject to increase (but not decrease) as of each fourth (4th) anniversary of the Rent Commencement Date hereof (each a "**Throughput Payments Review Date**"), in proportion to any increase as of such fourth (4th) anniversary in the CPI compared to the CPI as of the Rent Commencement Date or the immediately preceding fourth (4th) anniversary thereof (as applicable); *provided, however*, that, if the CPI has not increased as of a given Throughput Payments Review Date compared to the Rent Commencement Date or the immediately preceding Throughput Payments Review Date (as applicable), then the current TEU rate will continue unchanged until the next Throughput Payments Review Date and, *provided further*, that CPI increases and decreases for these purposes will first be measured on an annualized basis for the years involved, and then the cumulative increase, decrease, or lack of change (as applicable) for those years shall determine the TEU rate for Throughput Payments until the next Throughput Payments Review Date.

6.4 Tariffs for General/Break Bulk Cargoes, Dockage, Wharfage, Line Handling, Water, Harbormaster Fees, and Other Matters. In addition to the other payments for which GTUSA is obligated under this Agreement, GTUSA shall pay (if the contractual user of such services) the rates set forth from time to time in the Port's tariffs, as and when the same are due, for all matters governed by such tariffs.

6.5 Minimum Throughput TEU Volume. In order to maintain its exclusivity rights hereunder as to Pier 5 and the handling of containerized cargo at the Port, for each "**Cumulative Period**" commencing after the Rent Commencement Date GTUSA hereby agrees to meet the following "**Minimum Throughput Volume**" at the Premises:

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<u>Cumulative Period</u>	<u>Minimum Throughput Volume</u>
	(cumulative for each stated period of Lease Years)
1-3	350,000 TEU
4-6	550,000 TEU
7-9	700,000 TEU
10-12	1,000,000 TEU
13-15	1,200,000 TEU
Every 3-year period thereafter	1,200,000 TEU

No actual throughput in excess of the Minimum Throughput Volume for any Cumulative Period will carry over or be credited to the Minimum Throughput Volume for any following Cumulative Period.

GTUSA's failure to meet Minimum Throughput Volume for any Cumulative Period will not be considered a breach of this Agreement by GTUSA, but will permit Authority to permanently terminate GTUSA's exclusivity rights as to Pier 5, if then in effect, (but not any first priority rights as to Pier 5, if then in effect, and not the exclusivity rights as to Pier 6) and exclusivity rights to handle containerized cargo at the Port under this Agreement; provided, however, that, for each Cumulative Period for which Minimum Throughput Volume was not met, GTUSA shall have the option to pay the entire shortfall to Authority within thirty (30) days after such Cumulative Period ends, and thereby avert such permanent termination of containerized cargo handling exclusivity rights. The amount due Authority for any such shortfall shall be at the per-TEU rate in effect for the Cumulative Period involved but, if the per TEU rate changed during that Cumulative Period, then the amount due Authority for the shortfall shall be based upon the average of the per TEU rates that were in effect during that Cumulative Period. For example, if the per TEU rates during that Cumulative Period were \$20, \$21 and \$22, then the difference payable to Authority shall be calculated by multiplying \$21 (i.e., the average of \$20, \$21 and \$22) times the TEU shortfall.

6.6 Container Counts; GTUSA Books and Records; Authority Audit Rights.

Determination of the TEU for which amounts shall be due Authority for Throughput Payments shall be made by reference to the manifests maintained by GTUSA for Port Terminal Facilities cargoes, copies of which manifests shall be provided to Authority at the time when each Throughput Payment is due and payable under Section 6.3, and shall otherwise be made available to Authority or its designees at all reasonable times, upon request.

To facilitate verification of the amounts of any Throughput Payments or Non-Rent Payments due Authority pursuant to this Agreement, GTUSA will keep and preserve, for a period of at least five (5) Lease Years at any given time, all manifests for Port Terminal Facilities cargoes, and auditable books and records (whether in electronic or non- electronic form) for the Port Terminal Facilities, containing all information and data necessary to accurately make such verification. Such manifests, books and records shall at all times be maintained in Brevard

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County, Florida, at a place(s) that GTUSA will promptly disclose to Authority upon request from time to time. Further, GTUSA covenants and agrees as follows:

(a) After the Rent Commencement Date, GTUSA shall semi-annually deliver to the Authority, within forty five (45) days after the close of the second and fourth quarters of each Lease Year, and within the same period after each permitted assignment of this Agreement or the termination of this Agreement, a statement showing GTUSA's computations of and for Non-Rent Payments due Authority for the preceding six (6) calendar months, in reasonable detail and in accordance with generally accepted accounting principles. Each such semi-annual statement shall be signed and certified by an authorized officer or principal of GTUSA, and shall state specifically that:

- (1) the signatory has examined such statement;
- (2) the signatory's examination included such review of GTUSA's cargo manifests, and other books and records, as was reasonably necessary and appropriate to make the statement complete and accurate; and,
- (3) based on the signatory's review, the statement fairly accounts for the amounts of Non-Rent Payments due under this Agreement from GTUSA to Authority for the period the statement covers.

(b) In each instance of Authority's request to audit GTUSA's books and records (but at least 180 days after the last such audit request), and within thirty (30) days after such request, GTUSA shall make its books and records available to Authority, with reasonable accommodations for examination and audit of, and extractions from, such books and records during daytime business hours, at GTUSA's offices at the Port Terminal Facilities,.

(c) If any such audit determines that GTUSA's liability to Authority for Non-Rent Payments was in excess of the amounts actually paid for the audited period, GTUSA shall promptly pay such excess and any taxes thereon upon written demand by Authority; on the other hand, if any such audit determines that GTUSA overpaid Non-Rent Payments for the audited period, then Authority shall promptly return the overpaid amount to GTUSA upon its written demand.

(d) If GTUSA fails to timely render to Authority any semi-annual statement required by subsection "a" above, or if Authority shall duly notify GTUSA of its intention to exercise its audit rights with respect to such a statement or the period covered or to be covered thereby, then Authority may either conduct such audit itself or through a designee, and examine any books and records relevant to determining the amount of Non-Rent Payments due Authority for the audited period.

(e) In each instance, GTUSA shall promptly pay to the Authority, as Non-Rent Payments, the Authority's reasonable and reasonably documented audit costs and expenses if (i) such audit was commenced upon GTUSA's failure to timely provide any semi-annual statement required by subsection "a" above, and/or (ii) the Authority's audit establishes an underpayment by GTUSA of more than three percent (3%) in Non-Rent Payments actually due the Authority for the audited period.

(f) Authority shall not require GTUSA to provide audited semi-annual statements under subsection "a" above, but will accept those statements certified by an authorized officer or

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principal of GTUSA; provided, however, if two (2) consecutive audits by Authority establish an underpayment of more than three percent (3%) in Non-Rent Payments actually due the Authority for the audited period for both audited periods, then Authority may require GTUSA to provide audited statements thereafter, at GTUSA's sole expense.

The provisions of this Section respecting Authority's audit rights, and GTUSA's liability for Authority's reasonable and reasonably documented audit costs and expenses, shall survive any permitted assignment or termination of this Agreement.

Article VII

TAXES, LICENSES AND PERMITS

In addition to the other payments for which GTUSA is obligated under this Agreement, GTUSA covenants and agrees to pay all applicable taxes, levies, excises, impact fees, assessments and any other sums as may be due to any taxing authority whatsoever (collectively, "**Applicable Taxes**") based in any manner upon or against GTUSA, the Rent, Non-Rent Payments, or any other charges to be made to GTUSA under this Agreement, this Agreement itself, the Premises and/or its improvements, the property owned by GTUSA and located or used upon the Premises, and the Permits required of GTUSA by this Agreement. GTUSA shall make all payments of Applicable Taxes before any fine, penalty or delinquency charge may become due for non-payment thereof. Any failure of GTUSA to pay any and all Applicable Taxes prior to the date when the same become delinquent in any instance shall be a breach of this Agreement, at Authority's sole option.

GTUSA shall apply for, obtain and maintain all licenses and permits required by every Governmental Authority that has jurisdiction over GTUSA's use and occupancy of the Premises, including the business conducted by GTUSA thereon or any aspect thereof.

Notwithstanding the foregoing, GTUSA shall have the right to appeal any decision of any taxing authority and, if so allowed by Law, not pay such tax or any increase thereof until a final decision on the appeal has been rendered, provided, however, that, if a tax certificate is issued in any instance, GTUSA shall be obligated to redeem the same within 30 days after such issuance. Authority shall reasonably cooperate with GTUSA in any such appeal.

Article VIII

CERTAIN RELEVANT U.S. STATUTORY PROVISIONS

8.1 **OFAC.** GTUSA represents and warrants to Authority that, to its actual and constructive knowledge: (i) neither GTUSA (which shall include, for purposes of this section, its parent and affiliated companies, owners, members, managers, shareholders, directors, officers, representatives, agents, employees, distributors, vendors, and suppliers collectively, "**GTUSA Affiliates**"), nor any of its funding sources, is identified on the Specially Designated Nationals ("**SDN**") and Blocked Persons List of the U.S. Treasury's Office of Foreign Assets Control ("**OFAC**"); (ii) neither GTUSA, nor any GTUSA Affiliate or any guarantor of all or any part of GTUSA's obligations under this Agreement, are directly or indirectly owned or controlled by the government of any country that is subject to an embargo imposed by the United States government; (iii) neither GTUSA, nor any GTUSA Affiliate or guarantor of all or any part of GTUSA's obligations under this Agreement, are acting on behalf of a government of, or are or have been in the past ten (10) years involved in business arrangements or other transactions

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with, any country that is subject to such an embargo. Notwithstanding anything to the contrary in this Agreement, GTUSA may not suffer or permit any transfer of ownership, or of its business or other assets, to any SDN or Blocked Person, or to an entity in which any SDN or Blocked Person has an interest. GTUSA hereby agrees to notify Authority in writing immediately upon the occurrence of any event which would cause the foregoing representations and warranties of this Section to be incorrect in any respect, or upon any breach of the foregoing covenants and, should such notice be given, Authority shall have the right to then or thereafter terminate this Agreement in its sole and absolute discretion.

"SDN or Blocked Person" means (i) a person or entity designated by OFAC (or any successor office or agency of the U.S. government) from time to time as a **"specially designated national or blocked person"** or similar status, (ii) a person or entity described in Section 1 of U.S. Executive Order 13224, issued on September 23, 2001, or (iii) a person or entity otherwise identified by government or legal authority as a person with whom Authority or its affiliates are prohibited from transacting business.

8.2 **Foreign Corrupt Practices Act (FCPA).**

(a) **Prohibited Conduct.** In connection with any aspect of this Agreement or any other transaction involving GTUSA, neither GTUSA nor any GTUSA Affiliate have engaged or will engage in Prohibited Conduct (as hereinafter defined), directly or indirectly, in the performance of this Agreement or otherwise on behalf of itself or GTUSA. In the event that, during the Term hereof, GTUSA or any GTUSA Affiliate is not in compliance with this Section, GTUSA shall make prompt disclosure of such non-compliance to Authority, and Authority shall have the right to terminate this Agreement.

(b) **No Public Officials or Relatives Thereof.** Neither GTUSA nor any GTUSA Affiliate are, nor during the Term of this Agreement will become, (i) a Public Official in any country where any aspect of this Agreement will take place; (ii) an immediate family member of such a Public Official (i.e., parent, child, spouse, sibling, cousin, or any of the foregoing through marriage); or (iii) a nominee for any Public Official. In the event that GTUSA or any GTUSA Affiliate ceases to be in compliance with the foregoing, GTUSA shall make prompt disclosure of such non-compliance to Authority, and Authority shall have the right to terminate this Agreement.

(c) **Annual Certification.** Within the month of December of each calendar year during the Term of this Agreement, GTUSA shall send written certification to Authority confirming GTUSA's strict compliance with applicable laws and this Section.

"Prohibited Conduct" means:

(A) the payment, offer, agreement or promise to pay, or authorization of the payment, offer, or promise to pay, or any act in furtherance of the payment, offer or promise to pay, any money, offer, gift or any other thing of value, directly or indirectly, to or for the benefit of (i) any Public Official, or to any other Person while knowing or suspecting that all or some portion of the payment or thing or value will be offered, given, promised, or authorized to be given to a Public Official, for the purpose of (a) influencing any act or decision that such Public Official is not required to do or make, (b) inducing such Public Official to do or omit to do any act in violation of the lawful duty of such Public Official, (c) securing any improper advantage, or (d) inducing such Public Official to use his influence with a government or government instrumentality to affect or influence any act or decision or such instrumentality, in order to assist such Person in obtaining

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or retaining business for or with, or directing business to, any person; or (ii) any other Person, if such payment, offer, promise or authorization would violate, or subject the Person to any liability or penalty under any applicable Law, including the FCPA (without regard to jurisdiction);

(B) the conduct of business dealings in any Targeted Country or with any SDN or Blocked Person, including directly or indirectly (i) marketing, solicitation or negotiation in or with a Targeted Country or SDN or Blocked Person; (ii) the export or import of any goods or services to or from a Targeted Country or SDN or Blocked Person; (iii) the facilitation of any financing, trade or transaction in or with a Targeted Country or SDN or Blocked Person; (iv) leasing, contracting or otherwise using a prohibited vessel connected to Targeted Country or SDN or Blocked Person; (v) hiring nationals of a Targeted Country, wherever located, or (vi) travelling to a Targeted Country; or

(C) the use or resale of the Products for use, in the design, development, production or use of chemical or biological weapons or missiles or instruments capable of carrying nuclear warheads.

As used in this Section:

(i) **"Public Official"** shall mean any director or officer of a government or any department, agency, or instrumentality thereof, including any federal, regional or local department, or of a public international organization, any political party, any official of a political party, any candidate for political office, any member of a ruling or royal family.

(ii) **"Targeted Country"** shall mean such geographic regions and governments, as listed by OFAC, against whom economic sanctions and embargoes have been imposed.

Article IX

ENVIRONMENTAL PROVISIONS

The Sections of this Article state the environmental provisions of this Agreement.

9.1 **Environmental Definitions.** The following terms, as used in the environmental provisions of this Agreement, shall have the meanings indicated:

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC §§9601, et seq.), as amended from time to time, including without limitation, the Superfund Amendments and Reauthorization Act of 1986 (**"SARA"**).

"CERCLIS" means the Comprehensive Environmental Response, Compensation and Liability Information System, or any other information system, established pursuant to CERCLA or any other Environmental Law or Environmental Regulation.

"Environmental Law" means any applicable federal, state or local law, statute, code, ordinance, or common law, whether now in existence or established, enacted or amended during the Term of this Agreement, relating to pollution, protection of the environment, health, industrial hygiene, Hazardous Substances (including, without limitation, the manufacture, generation, distribution, use, treatment, storage, disposal, transport or handling thereof),

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including, but not limited to, CERCLA, SARA, RCRA, the Florida Resource Recovery and Management Act (Florida Statutes §§403.702, et seq.), and the Pollutant Spill Prevention and Control Act (Florida Statutes §§376.011 through 376.165 and 376.19 through 376.21).

"Environmental Regulation" means any applicable regulation or rule promulgated by any Environmental Regulator.

"Environmental Regulator" means any federal, state or local governmental or quasi-governmental unit, body or agency which is charged with regulating environmental or Hazardous Substances, or which is charged with enforcing any Environmental Law or Environmental Regulation, including, without limitation, the U.S. Environmental Protection Agency ("EPA"), the Florida Department of Environmental Protection ("FDEP"), and the Brevard County Natural Resources Management Department.

"Hazardous Substance" means asbestos, polychlorinated biphenyls, petroleum products and distillates, and any other substances, materials and wastes which are or become regulated or controlled by any Environmental Law or Environmental Regulation applicable at any time to the use by GTUSA, its agents or invitees of the Premises during the Term of this Agreement, including, without limitation, those within the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," "solid waste," "pollutants," "contaminants," or "nuclear or byproduct material" in any such Environmental law or Environmental Regulation.

"National Priorities List" means the National Priorities List established pursuant to CERCLA or any other list identifying hazardous or toxic waste sites maintained or controlled by any Environmental Regulator.

"RCRA" means the Resource Conservation and Recovery Act of 1976 (42 USC §§6901, et seq.), as amended from time to time.

9.2 **Environmental Covenants of GTUSA.** GTUSA covenants for itself, its agents and invitees, and warrants, as applicable, that at all times during the Term of this Agreement:

(a) The Premises shall not be used by GTUSA, its agents or invitees for the storage, generation, release or disposal of any Hazardous Substance in violation of any Environmental Law, Environmental Regulation, order of an Environmental Regulator, or any Permit issued by an Environmental Regulator, or for any purpose that would cause the Premises to be listed on the National Priorities List or with CERCLIS; give rise to a clean-up, remediation or other response action; cause the imposition of any fine, penalty, assessment, cost, forfeiture or imposition for violation of an Environmental Law or Environmental Regulation; subject the Premises, Authority, or Authority's properties to a claim, claim of lien or lien for response costs, damages or other costs pursuant to any Environmental Law or Environmental Regulation; any purpose

(b) No Hazardous Substance will be intentionally released or disposed of on the Premises, or from any off-site GTUSA pipelines used in connection with operations at the Premises, by GTUSA, its agents or invitees in violation of any Environmental Law, Environmental Regulation, order of an Environmental Regulator, or any Permit issued by an Environmental Regulator and, in the case of any unintentional or negligent release or disposal, GTUSA will be allowed a reasonable period of time in which to remove and dispose of the

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Hazardous Substance and achieve remediation, subject to and in accordance with all applicable Environmental Laws and Environmental Regulations.

(c) GTUSA and its agents and invitees shall maintain full compliance with all Permits issued by Environmental Regulators with respect to the conduct by GTUSA, its agents or invitees of operations governed by this Agreement.

(d) If GTUSA shall receive any notice regarding the Premises from any Environmental Regulator of any violation, circumstance or event that constitutes or, with the passage of time, would constitute a violation, of any Environmental Law or Environmental Regulation, or relating to any clean-up, remediation or other response action or threat thereof, then GTUSA shall immediately notify Authority thereof, and of all material subsequent developments related thereto.

(e) GTUSA agrees to promptly notify Authority upon the occurrence of any storage, generation, release, disposal or placing of any Hazardous Substance of any kind in, on, about or under the Premises in violation of any Environmental Law, Environmental Regulation, order of an Environmental Regulator, or any Permit issued by an Environmental Regulator, regardless of the source or other circumstances thereof. Further, GTUSA shall promptly notify Authority in writing of the receipt of any notice, order, correspondence, communication or reasonably reliable information that:

(i) a Permit is required from any Environmental Regulator for the use or operation by GTUSA, its agents or invitees upon the Premises, which permit involves operations that will have a substantial direct impact on the Premises;

(ii) a summons, citation, order directing compliance or inquiry has been or is being issued or made by any Environmental Regulator, related to the Premises, which summons, citation or order involves an operation that has a substantial direct impact on the Premises;

(iii) any Environmental Regulator or third party has demanded or asserted any right of recovery for payment or reimbursement, or any claim, claim of lien or lien against the Premises for clean-up costs, damages, or other costs incurred, under or pursuant to any Environmental Law, Environmental Regulation, or the common law;

(iv) the Premises are or will be listed on the National Priorities List or with CERCLIS;

(v) any fine, penalty, assessment, cost, forfeiture or imposition has been, is being, will be or is sought to be imposed against GTUSA, its agents or invitees, or Authority, for violation or asserted violation by GTUSA, its agents or invitees of any Environmental Law, Environmental Regulation, any order of an Environmental Regulator or any permit issued by an Environmental Regulator; or

(vi) any clean-up, remediation or other response action pursuant to any Environmental Law or Environmental Regulation has been, is being, or will be, commenced by any Environmental Regulator or third party with regard to the Premises which would give rise to a claim, claim of lien or lien against the Premises.

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Should Authority at any time so request, GTUSA shall execute and deliver to Authority reasonable detailed certifications, satisfactory to Authority, concerning the environmental covenants and warranties made by GTUSA in this Agreement.

9.3 Clean-up Plan.

In the event of any determination that, through actions by or attributable in any manner to GTUSA, its agents or invitees, any Hazardous Substance has been stored, generated, located, released or disposed of in, on, about or under the Premises, or that any storage facility is located in, on, about or under the Premises, in violation of any Environmental Law, Environmental Regulation, order of an Environmental Regulator, or any Permit issued by an Environmental Regulator, GTUSA shall immediately give notice thereof to Authority. Further, in each such instance, GTUSA shall, at its sole cost and expense, promptly notify and keep Authority informed in reasonable detail of response actions proposed or necessary for clean-up or remediation, the plans and specifications therefor, and all material developments related thereto. Promptly upon obtaining all necessary Permits from all Environmental Regulators and other appropriate Governmental Authorities, GTUSA shall, at its sole cost and expense, diligently prosecute the response actions contemplated herein.

9.4 Continuing Nature. The environmental provisions of this Agreement shall survive the termination of this Agreement, and shall continue in full force and effect so long as the possibility shall exist of any environmental liability, obligation or loss of, or claim against, Authority, and attributable to any act or omission of GTUSA, its agents or invitees. GTUSA agrees to diligently seek a "no action determination" from the applicable Governmental Agencies with respect to any environmental claim that may have been identified before the termination of the Agreement.

9.5 Authority Right to Inspect Records and Conduct Sampling.

GTUSA agrees that, at all times, it keep at the Premises a copy of all of GTUSA's records relating to environmental matters at the Premises, and will allow Authority to inspect the same upon reasonable notice. Further, Authority or its hired contractors shall be allowed to conduct environmental inspections, including air, water and soil sampling, at the Premises periodically, upon reasonable notice. The obligations and rights of GTUSA and Authority under this Section are cumulative to, and not in limitation of, the other obligations and rights of the parties under this Article.

9.6 Environmental Indemnification. Except to the extent caused by Authority's negligent or intentional acts or omissions, GTUSA agrees to and shall indemnify, defend (by counsel acceptable to Authority) and hold Authority harmless from and against all of the following matters which arise by virtue of the use or occupancy of the Premises, or any surrounding or adjacent properties, by GTUSA, its agents or invitees:

(a) any and all liabilities, claims, demands, obligations, losses, fines, penalties, assessments, forfeitures, awards, judgments, or amounts paid in settlement or compromise thereof, and costs associated therewith (including reasonable attorney's fees if GTUSA does not provide or offer to provide a defense on terms satisfactory to Authority), by virtue of any investigation, inquiry, suit, proceeding, action, cause of action, right to recovery, assessment, claim, claim of lien or lien of or by any Environmental Regulator, or any third party, with respect to the Premises, for clean-up costs, punitive and consequential damages, or costs pursuant to or imposed by any Environmental Law, Environmental Regulation or order of an Environmental

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Regulator, or any common law right of recovery, including those arising from personal injury, death or property damage;

(b) any and all costs required to effect any remediation of, or response action as to, the release of any Hazardous Substance in, on under or affecting the Premises, or into the air, any waters, or surrounding or adjoining properties, if such responsibility is not promptly and diligently performed by or at the instance of GTUSA;

(c) any and all costs required to rectify any non-compliance at the Premises in connection with any Environmental Law, Environmental Regulation, order of Environmental Regulators, or Permits issued by Environmental Regulators, if such responsibility is not assumed and promptly and diligently performed by or at the instance of GTUSA;

(d) any of the environmental warranties or covenants of GTUSA contained herein, or in certificates from GTUSA to Authority issued pursuant hereto, are inaccurate or breached; and,

(e) in connection with any of the foregoing, the reasonable costs of any required engineering or other professional services, inspections or audits.

9.7 **Limitation of GTUSA's Liability.** Notwithstanding anything to the contrary in this Agreement, GTUSA shall have no liability hereunder for a release of any Hazardous Substance in, on under or affecting the Premises, or into the air, any waters, or surrounding or adjoining properties, or for any non-compliance of the Premises with any Environmental Law, Environmental Regulation, order of Environmental Regulators, or Permits issued by Environmental Regulators, which GTUSA can establish: (i) existed on the Premises prior to the Effective Date were or are caused by Authority or its agents or invitees, or were caused by a third party that is not GTUSA's agent or invitee, and (ii) were not exacerbated by the actions of GTUSA or its agent or invitee.

Article X

INSURANCE

Throughout the Term, GTUSA shall provide, pay for (and pay for deductibles), and maintain with insurance companies satisfactory to Authority, the types of insurance described in this Article. Notwithstanding any contrary provision of this Agreement, Authority retains the right, at all times and from time to time, to require that GTUSA provide, pay for and maintain greater coverages under the insurance required hereby in order to correspond with inflation rates and other economic factors, changes in market conditions, claims history at the Premises, and Good Industry Practice.

10.1 **Insurance Requirements.** All required insurance shall be issued by responsible insurance companies qualified to do business in the State of Florida, with a minimum Bets rating of "A", and reasonably acceptable to Authority. Terminology used in all required policies, forms, endorsements, and other insurance deliverables hereunder must be reasonably acceptable to Authority. All required insurance policies shall comply with the minimum requirements contained herein. All liability policies shall provide that Authority is an additional insured as to the operations of GTUSA under this Agreement, and shall also include a severability of interest provision. All insurance coverages of GTUSA shall be primary to any

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insurance or self-insurance program carried by Authority. If any general liability insurance required herein is to be issued or renewed on a **"claims made"** basis as opposed to an **"occurrence"** basis, the retroactive date for coverage shall be no later than the date of this Agreement, and shall provide that, in the event of cancellation or non-renewal, the period for discovery and reporting of insurance claims (i.e., tail coverage) shall be not less than the applicable statutes of limitations for such claims. GTUSA shall assure that there are no lapses in coverage as to any required insurance and, should such a lapse occur, or if GTUSA does not provide all required insurance coverages throughout the Term, the same shall constitute a material default of this Agreement, entitling Authority to terminate this Agreement, or pursue any other remedies for default as are provided hereunder.

(a) Certificates of Insurance; Assurance Letters. Prior to the execution and delivery of this Agreement, GTUSA shall provide to Authority (i) certificates of insurance (each, a **"Certificate"**), executed by an authorized representative of the insurer, evidencing the required insurance coverages and limits under this Agreement, and (ii) a letter from GTUSA's current insurance agent certifying to Authority that the first dollar of covered claims against GTUSA's workers compensation, automobile, pollution, U.S. Longshoremen's and Harbor Worker's Compensation and general liability insurance policies are funded by the insurer notwithstanding policy deductibles (an **"Assurance Letter"**). In addition, whenever requested by Authority, GTUSA shall deliver to Authority's designated risk management officer or department, in a timely manner, (a) certified, true and exact copies of all insurance policies required herein, and (b) updated Assurance Letters. Any Certificate delivered to Authority during the Term must be personally and manually signed by the authorized representative of the insurance company(ies) shown in the Certificate, with proof that the signatory is an authorized representative thereof. GTUSA authorizes Authority and its agents, at their option, to communicate with GTUSA's insurance agents, brokers, sureties and insurance companies in order to assure compliance with the insurance requirements set forth herein. GTUSA shall not begin work upon or commence occupancy of the Premises unless and until the required Certificate(s) and Assurance Letter have been provided to Authority, and Authority has given GTUSA notice to assume occupancy of the Premises.

(b) Impairment of Coverage. GTUSA shall give Authority's designated risk management officer or department thirty (30) days prior written notice by registered or certified mail of any cancellation, intent not to renew, or reduction in policy coverages, except in the application of the aggregate limits provisions. In the event of a reduction in any aggregate limit, GTUSA shall take immediate steps to restore the coverage amount to the amount required herein. If at any time Authority requests a written statement from the insurance company as to any impairments to the aggregate limit, GTUSA shall promptly authorize and have delivered such statement to Authority's designated risk management officer or department, and GTUSA shall immediately make up any impairment when it first acquires knowledge thereof.

(c) Deductible. Should any of GTUSA's insurance policies provide for a deductible, self-insured retention, self-insured amount, or any other claim/cost sharing arrangement (**"Deductible"**) in excess of \$100,000.00, then GTUSA agrees to provide, pay for, and maintain a surety bond from an insurance company acceptable to Authority, or a standby irrevocable letter of credit in a form acceptable to Authority from a bank acceptable to Authority (such bond or letter of credit being a **"Deductible Guarantee"**), in the amount of such Deductible and guaranteeing its payment. Any Deductible.

(d) Insurance Forms. The amounts and types of insurance shall conform to the minimum requirements set forth herein, with the use of Insurance Service Office (**"ISO"**) policies,

forms, and endorsements where applicable.

10.2 **Insurance Coverages and Limits.**

(a) **Workers' Compensation and Employer's Liability Insurance** shall be maintained in force for all employees of GTUSA. If the operations of GTUSA require Longshoreman's and Harbor Workers' Insurance, it must be included under this insurance requirement.

Limits of coverage shall not be less than:

Workers' Compensation:	Florida Statutory Limits
Employer's Liability:	\$1,000,000 Limit Each Accident \$1,000,000 Limit Disease Aggregate \$1,000,000 Limit Disease Each Employee

GTUSA and Authority will each require that their respective insurance companies waive its subrogation rights against each other by specific endorsement to their policies.

(b) **Commercial General Liability Insurance**, in addition to the pollution liability insurance hereinafter provided for, shall be maintained by GTUSA on a full occurrence form. Coverage shall include, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, longshoreman coverage, Broad Form Property Damage, Products & Completed Operations Coverages, and shall not exclude coverage for the "X" (explosion), "C" (collapse), and "U" (underground) Property Damage Liability exposures. Completed Operations Liability Coverage shall be maintained for a period of not less than two (2) years following termination of this Agreement. Limits of Coverage shall not be less than:

Bodily Injury, Personal Injury & Property Damage Liability:	\$1,000,000.00 Combined Single Limit Each Occurrence
Excess Liability Aggregate	\$100,000,000.00

(c) **Business Automobile Liability Insurance** shall be maintained by GTUSA as to the ownership, maintenance, loading and unloading, and use of all owned, non-owned, leased or hired vehicles to be used by GTUSA or its agents on the Premises, with limits of not less than:

Bodily Injury Liability	\$1,000,000.00 Limit Each Person \$1,000,000.00 Limit Each Accident
Property Damage Liability	\$1,000,000.00 Limit Each Accident

OR

Bodily Injury & Property Damage Liability	\$1,000,000.00 Combined Single Limit Each Accident
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(d) **Umbrella Liability Insurance**. GTUSA shall maintain an umbrella insurance policy for \$100,000,000.00 Each Occurrence, insuring over and above the primary limits of liability insurance required for Commercial General Liability, Business Automobile Liability and

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Employers Liability Insurance coverages hereinabove required. The required primary coverage limits shall not be less than those required herein, with coverages to be the same or broader.

(e) **Fire and Allied Property Insurance.** GTUSA shall procure and maintain insurance for the Cranes, and for the buildings and other improvements on the Premises, at full replacement cost, including debris and tank removal and building ordinance coverage, in an amount acceptable to Authority, against loss of or damage to, by or from, but not limited to, the following causes of loss: fire, lightning, windstorm, hail, riot, riot attending a strike, civil commotion, explosion, smoke, aircraft, vehicles, vandalism and malicious mischief, flood and earthquake on an "all risk" type policy. The initial replacement coverage for each of the Cranes shall be \$10,000,000.00, subject to adjustment on an annual basis, or at the instance of either Party whenever their full replacement value is shown as having demonstrably changed. The initial coverage for each building to be constructed by GTUSA on the Premises (including builder's risk coverage) shall be determined once the values of the building are calculated by either the insurance carrier or a certified appraiser acceptable to Authority. Any deductible or sub-limit of coverage must be agreed to in writing by Authority, whose consent will not be unreasonably withheld or delayed, with GTUSA being fully responsible thereof. Authority shall be named as "Loss Payee", as their interest may appear at the time of loss, with the policy to require thirty (30) days' prior written notice of cancellation or non-renewal, for any reason, by the insurance company, by registered or certified mail, to be given Authority's designated risk management officer or department. The insurance shall be endorsed to provide that any payment for a claim will name both GTUSA and Authority on any loss payment check and release, as both have an interest in the loss, and the proceeds shall be used to rebuild the buildings and other improvements affected by the casualty involved. Any insurance proceeds remaining after such rebuilding is completed shall belong solely to GTUSA.

GTUSA and Authority agree to require their casualty insurers to provide full waivers of their subrogation rights against each other, their agents, servants or employees for any casualty claims paid to GTUSA or Authority, including Business Interruption, Extra Expense and Loss of Rental Income claims. If this waiver shall render void any such insurance policy, or shall result in the denial of coverage, then this waiver of subrogation provision of this Agreement shall be deemed null and void; otherwise, the casualty insurance policies shall be endorsed to show this joint waiver of subrogation by the insurance companies involved.

(f) **Pollution Liability Insurance.** GTUSA shall procure and maintain pollution liability insurance coverage for \$5,000,000.00 Combined Single Limit Each Occurrence.

10.3 **Restoration After Casualty.** If the Cranes or any item that GTUSA is responsible for pursuant to **Exhibit F** or any part thereof, are damaged or destroyed by reason of fire, flood, wind, casualty, catastrophe or any other cause, GTUSA shall promptly restore, repair, and make replacements as needed for the GTUSA's on-going performance of this Agreement. In each such event, restoration, repair, and replacements shall commence upon the earlier of the availability of insurance proceeds, or sixty (60) days after such fire, casualty, catastrophe, or other cause occurs. However, to the event that such items or any part thereof, Structures or other improvements, or Pier 5 or 6 are damaged or destroyed by reason of an intentional act or negligence attributable to Authority or any of its tenants (besides GTUSA), agents, employees, distributors, suppliers, vendors, customers, or other invitees or licensees, then Authority shall promptly restore, repair, and make replacements as needed, and this Agreement shall remain in full force and effect. If, by reason of the damage or destruction involved in the preceding sentence, GTUSA's conduct of its normal operations at the Port

Terminal Facilities are substantially impaired, then GTUSA's Minimum Throughput Volume obligations shall be equitably adjusted to the extent of such impairment from and after the date that the damage or destruction occurred until the date when restoration, repair or replacements (as applicable) are substantially completed. It is expressly agreed that, so long as Authority duly performs in accordance with its obligations under this Section, Authority shall have no other liabilities or responsibilities whatsoever to GTUSA arising out of or in connection with the subject matter of this Section 10.3, including for business interruption or other monetary damages, except that the Minimum Throughput Volume levels will be reasonably adjusted for the period of time and to the extent that GTUSA's conduct of its normal operations at the Port Terminal Facilities were substantially impaired due to causes covered by this Section, provided that GTUSA duly performed its restoration, repair, and replacement obligations under this Section eventuated by such causes.

10.4 **Insurance Claims.** Upon occurrences covered by any insurance required under this Article X, the Parties hereby agree to reasonably cooperate as necessary in each instance in filing and pursuing resolution of the insurance claim(s).

Article XI

SECURITY

11.1 **Seaport Security Standards.**

For purposes of this Agreement, the phrase "**Seaport Security Standards**" shall mean all applicable federal, state and local laws, regulations, rules, policies and procedures in effect from time to time concerning security at the Port, including the U.S. Maritime Transportation Security Act of 2002; Title 33, Parts 101 and 105 of the United States Code of Federal Regulations; Chapter 311, Florida Statutes; the Memorandum of Understanding between the Canaveral Port Authority and the Naval Ordinance Test Unit Concerning Ship Movement Priority In Port Canaveral; the Port Canaveral Emergency Ship Movement Policy; and the security provisions of all tariffs in effect at the Port, each as amended, supplemented, restated or otherwise modified from time to time.

11.2 **GTUSA's General Security Obligations.**

GTUSA acknowledges and agrees that compliance with the Seaport Security Standards is a material requirement of this Agreement, and that GTUSA is solely responsible at all times for (1) meeting the facility security requirements as delineated under Title 33, Part 105, Subpart B of the United States Code of Federal Regulations; (2) educating its personnel on the requirements of the latest Seaport Security Standards in effect from time to time; and (3) maintaining GTUSA's compliance therewith. GTUSA shall comply with all Seaport Security Standards applicable to GTUSA and/or the Premises (including any adjoining wharf or pier areas), at GTUSA's sole cost and expense. Further, GTUSA shall cooperate with Authority in good faith to achieve and maintain Authority's compliance with the Seaport Security Standards.

11.3 **Security Plans.**

Authority has prepared a facility security plan for the Port in accordance with the Seaport Security Standards (the "**Port Facility Security Plan**"). GTUSA, as a "**facility operator**" for purposes thereof, shall be solely responsible for formulating and implementing a facility security plan and personnel security plan in accordance with the Seaport Security Standards, including

33 CFR Part 105, relating to GTUSA's operations and lease/use of the Premises ("**GTUSA's Facility Security Plan**"). GTUSA shall, upon approval by the Authority and the Captain of the Port, be responsible for obtaining and maintaining approval of GTUSA's Facility Security Plan from the United States Coast Guard, the Florida Department of Law Enforcement, and/or any other Governmental Authority. Authority will fully cooperate with GTUSA, at no cost or expense to Authority, in GTUSA's efforts to obtain approval of GTUSA's Facility Security Plan. GTUSA's Facility Security Plan shall incorporate policies and procedures to ensure compliance with the Port Facility Security Plan and the Seaport Security Standards, including applicable background checks, fingerprinting and badging of officers, employees, contractors and agents of GTUSA, maintaining the confidence of "**Security Sensitive Information**", communication of security threats, and designation of a Facility Security Officer in accordance with the provisions of 33 CFR 105.205, who shall be responsible for the coordination of security services in accordance with the approved GTUSA Facility Security Plan.

11.4 **Limitation of Security Obligations; Limitation of Liability.**

Notwithstanding anything herein to the contrary, GTUSA's security obligations and responsibilities shall be limited to those measures required by the Port Facility Security Plan, GTUSA's Facility Security Plan and/or the Seaport Security Standards that are applicable to GTUSA or GTUSA's activities and operations. Authority shall have no obligation to provide any additional security or security equipment or facilities to the Premises or GTUSA, except as required by the Port Facility Security Plan or the Seaport Security Standards. Notwithstanding any security measures Authority may undertake during the term of this Agreement, it being acknowledged that such measures are intended to provide for the security of the land, buildings, structures, and personal property under the direct use, control and possession of Authority, GTUSA shall be solely responsible, and Authority shall have no responsibility whatsoever, for implementing and carrying out any and all security measures necessary or desirable to protect the operations of GTUSA and/or the Premises (including any of GTUSA's improvements and personal property located thereon) and, further, that Authority shall not be liable for any loss, damage or injury occurring on the Premises as a result of the security for the Premises.

Article XII

ASSIGNMENT AND SUBLETTING

The provisions of this Article are cumulative to each other.

12.1 **Restrictions Upon Transfers, Subletting, Etc.**

Without in each instance obtaining the prior written consent of Authority, which consent may be reasonably withheld by Authority if, in Authority's sole opinion, any proposed action covered by this Section is not in the financial, competitive, business or regulatory interest of Authority or the Port, and subject to Section 12.3, neither GTUSA nor any of the other GT Parties (as applicable) may (i) sell, assign, transfer, mortgage, pledge, or hypothecate the whole or any part of its interests, or delegate any of its Services or other obligations, under this Agreement, or have a sale, assignment or transfer occur, in one or more transactions, of any material assets or business of the GT Parties, or of substantially all of the material assets of any of the GT Parties, or of any equity, beneficial or other ownership interests in GTUSA or Gulf Americas (each a "**Transfer**"); (ii) sublet the whole or any part of the Premises (a "**Sublease**"); or (iii) allow the occupancy of the whole or any part of the Premises by any Person other than GTUSA (a "**New Occupancy**"). Notwithstanding any permitted assignment or subletting,

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GTUSA shall at all times remain directly, primarily and fully responsible and liable to Authority for the payment of Rent, Non-Rent Payments and all other monetary obligations of GTUSA under this Agreement, and for compliance with all non-monetary obligations owing to Authority hereunder. Any Sublease or New Occupancy that is not made in compliance with this Section shall be void, and shall entitle Authority at its option to all rights and remedies for such non-compliance under Law, and whether at law or in equity, including the immediate termination of this Agreement upon giving prior written notice of termination to GTUSA. All Transfers, Subleases, and New Occupancy are subject to the Authority's Occupancy Policy and Procedures, as published and amended from time to time by the Authority. Further, GTUSA shall be obligated to Authority to assure that the provisions of this Section 12.1 have been communicated to Gulf Americas, and to exercise diligence in seeking compliance by Gulf Americas with said provisions.

12.2 **No Waiver.**

A consent given by Authority in any instance pursuant to the preceding Section shall not waive or obviate the necessity for such consent to any subsequent events covered by that Section.

12.3 **Factors Considered by Authority.**

Authority may refuse to grant its consent to any proposed Transfer, Sublease or New Occupancy if Authority is not satisfied, in its sole and absolute discretion, with the financial responsibility, identity or business character of, or the nature or legality of the proposed use by, a proposed transferee, sublessee or new occupant, any planned alterations of the Premises if Authority consent is given, or any other factors or issues which may logically and reasonably bear upon any such proposal, or if, in Authority's sole opinion, any such proposed action is not in the financial, competitive, business or regulatory interest of Authority or the Port. In addition, the recipient Person(s) in any proposed Transfer, Sublease or New Occupancy must provide in writing to Authority the same representations, warranties and covenants as are set forth in Article VIII hereof, final CFIUS approval (if applicable, in the reasonable judgment of Authority whether consent by Authority or notice to Authority is required) of a proposed Transfer, Sublease or New Occupancy; written notice from the FMC either that the proposed Transfer, Sublease or New Occupancy will not adversely affect the continued qualification of GTUSA as a Marine Terminal Operator under FMC regulations (46 CFR 501 *et seq.*), or that the recipient Person(s) have qualified as a Marine Terminal Operator(s), providing Authority with a Marine Terminal Operator organization number; and meet such other requirements as Authority may reasonably call for under the circumstances surrounding the proposed Transfer, Sublease or New Occupancy. Furthermore, Authority may unconditionally withhold its consent under this Section as long as a breach of this Agreement by GTUSA occurs and is continuing.

12.4 **Notice Required Prior to Authority Consent.**

In the event GTUSA desires to effect a Transfer, Sublease or New Occupancy, GTUSA shall give not less than sixty (60) days' prior written notice thereof to Authority, including or accompanied by the names of the parties to such Transfer, Sublease or New Occupancy and the terms thereof and, pending Authority's final action on the matter, such other information as Authority may reasonably require.

12.5 Additional Transfer, Sublease or New Occupancy Provisions & Notice of Transfers.

- (a) GTUSA shall in no event assign less than its entire interest in this Agreement.
- (b) GTUSA hereby irrevocably assigns to Authority all rent and Non-Rent Payments due from any sublessee of the Premises (except those that are in excess of what is owed to Authority under this Agreement), and agrees that Authority, as assignee for GTUSA, appointed upon Authority's application, may collect such Rent and Non-Rent Payments upon GTUSA's default under this Agreement for payment to Authority for its own account.
- (c) GTUSA hereby agrees to provide Authority in each instance, without the necessity of any demand therefor, with written notice given within 10 days of any (i) change in the equity, beneficial or other ownership interests in GT International, and (ii) change not made in the ordinary course of business in the majority of the senior management and/or members of the board of managers, board of directors or other applicable supervisory board, as the case may be, of any of the GT Parties from those senior management or members existing as of the date of the last certification statement provided to Authority pursuant to this Section or other provisions of this Agreement.
- (d) Cumulative to the requirements of Sections 2.1, 1.7 and 12.5(c), within fifteen (15) days after each anniversary of the Effective Date during the Term, GTUSA shall deliver to Authority, without the necessity of any notice or demand therefor, signed and certified written statement(s) addressed to Authority, dated as of the anniversary of the Effective Date involved and made by an authorized officer or principal of GTUSA or the other GT Parties respectively, setting forth the following: (1) the names and respective percentage interests of each and every Person then holding ownership interests in each of the GT Parties; and (2) the names of the individuals constituting the senior management and/or members of the board of managers, board of directors or other applicable supervisory board, as the case may be, of each of the GT Parties.

12.6 Assignment by Authority. Authority shall have the right to outsource any of the services that it is obligated to provide under this Agreement, but will not outsource such services, assign this Agreement or transfer the Premises to any private commercial party that can reasonably be considered to be a competitor of GTUSA or the GT Parties.

12.7 Involuntary Assignment.

No interest of GTUSA in this Agreement shall be assignable by operation of law, and each of the following shall be considered an involuntary assignment:

- (a) GTUSA files or has filed against it a petition under the Bankruptcy Act and (if an involuntary proceeding) GTUSA does not have the case dismissed within ninety (90) days of the filing;
- (b) GTUSA becomes insolvent or makes an assignment for the benefit of creditors;
or
- (c) a writ of attachment or execution is levied on this Agreement or, in any proceeding or action to which GTUSA is a party, a receiver is appointed with authority to take possession of the Premises.

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If an involuntary assignment occurs, Authority shall have the election to terminate this Agreement, whereupon all right, title and interest of GTUSA in this Agreement shall cease.

Article XIII

INDEMNIFICATION

13.1 General Indemnification.

In addition to the other indemnification provisions herein, including the Environmental Indemnification, and except to the extent caused by Authority's negligent or intentional acts or omissions, GTUSA hereby covenants and agrees to indemnify and to save harmless Authority and its Commissioners, officers, agents and employees, from and against any and all claims, demands, costs, damages, debts, liabilities and causes of action of every kind or character whatsoever, whether in law or in equity, and including reasonable attorneys' fees and costs, by reason of any death of, or injury or damage to, any individual(s), or any damage to or destruction of property by GTUSA, its agents, its invitees or agents of such invitees, or any other Persons in, upon or respecting the Premises or any other properties of Authority used by GTUSA pursuant to or in connection with this Agreement, or any use of such properties, arising in whole or in part out of wrongful, intentional or negligent acts or omissions.

13.2 Indemnifications Cumulative.

GTUSA acknowledges and agrees that all of its indemnifications of Authority under this Agreement are cumulative to each other and to the other obligations of GTUSA hereunder.

13.3 Survival of Indemnifications.

Except as may be otherwise specifically provided in this Agreement, the Environmental Indemnification under Section 9.6, the General Indemnification under this Article, and the other indemnification provisions set forth herein shall survive and continue in full force and effect, and shall not be terminated, discharged or released in whole or in part, irrespective of the termination or expiration of this Agreement, or any Transfer, Sublease or New Occupancy hereunder, for a period of ten (10) years after the date of the termination or expiration of this Agreement.

Article XIV

DEFAULT AND REMEDIES

14.1 Default. In addition of any other defaults expressly provided for in this Agreement, the happening of any one or more of the events enumerated below shall constitute an event of default and a default by GTUSA under this Agreement at the option of Authority, no notice whatsoever being necessary from Authority unless otherwise stated:

1. GTUSA's failure to pay any Rent, Non-Rent Payments, Throughput Payments or any other payment due hereunder when any such payment is due, and that failure continues for a period of thirty (30) days after its due date, except that, with respect to Applicable Taxes (subject to GTUSA's appeal rights expressly provided for herein), GTUSA shall fail to pay the same before any fine, penalty or delinquency charge may become due for non-payment thereof.

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2. GTUSA's failure to timely perform its obligations under Section 5.6 relating to Financial Security.

3. GTUSA's continued failure to perform any other covenants of this Agreement (except for those relating to defaults covered by the preceding paragraphs "1" and "2") for a period of more than thirty (30) days after notice of such default is given to GTUSA by Authority or Authority's agents, or such longer period of time as may be reasonably necessary to cure such failure provided that cure is materially commenced within such thirty (30) day period, and thereafter continuously and diligently prosecuted to completion.

4. GTUSA making an assignment for the benefit of creditors.

5. A receiver or trustee is appointed for GTUSA or its assets.

6. GTUSA's voluntary petitioning for relief under, or otherwise seeking the benefit of, any bankruptcy, reorganization, arrangement, or insolvency law.

7. An involuntary bankruptcy filing against GTUSA, which is not dismissed within ninety (90) days after filing.

8. GTUSA's abandoning the Premises.

9. Except if attributable to a casualty that make the Port Terminal Facilities and GTUSA's normal activities therein essentially inoperable, GTUSA's ceasing to operate the Port Terminal Facilities as a going concern for a period of one hundred eighty (180) days.

10. GTUSA's interest under this Agreement is sold under execution or other legal process.

11. GTUSA's interest under this Agreement being assigned by operation of law without obtaining the prior written consent of Authority.

12. A Transfer, Sublease or New Occupancy is made or purportedly made without the prior written consent of Authority (which shall not be unreasonably withheld), or not in substantial compliance with the provisions of this Agreement regarding same.

13. GTUSA's failure to comply with the material terms of all Port Tariffs, or Authority rules and regulations, and such failure continues for more than thirty (30) days after delivery of written notice of such default to GTUSA by Authority or Authority's agents.

14. The Repeated Violation of any non-monetary requirement of this Agreement, notwithstanding the cure of each such violation or breach within any applicable curative period (for purposes of this paragraph, "**Repeated Violation**" occurs when substantially the same violation or breach has occurred more than three (3) times during any single Lease Year hereunder).

15. Any of the equipment or other personal property of GTUSA used in or incident to

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the operation of the Port Terminal Facilities being seized, sequestered or impounded by virtue or under authority of any legal proceeding, which seizure, sequestration or impounding shall materially and adversely affect or detract from the normal course of operations at the Port Terminal Facilities, and which is not discharged, released or rectified within ninety (90) days thereafter.

16. A lapse in coverage occurs with respect to any insurance required by this Agreement, or Authority is not timely provided any documentation required hereunder with respect to such insurance.

14.2 **Remedies.**

Upon the occurrence of any of the foregoing events of default/default, Authority, at its election, may exercise any one or more of the following options, consecutively or concurrently, and in such order as Authority may elect, to the extent allowed by Law, the exercise of any of which shall not be deemed to preclude the exercise of any others herein provided for:

(a) Terminate GTUSA's right to possession of the Premises and the Port Terminal Facilities under this Agreement, and re-enter and take possession thereof, and re-let or attempt to re-let the Premises on behalf of GTUSA, at such rent and under such terms and conditions as Authority deems best under the circumstances for the purpose of reducing GTUSA's liability and preserving the benefits to the Port of the Port Terminal Facilities operations and, pending such re-letting, Authority may itself or through parties of Authority's choice, undertake those operations. If Authority is unable to re-let the Premises to a qualified Marine Terminal Operator acceptable to Authority, and for consideration equal to or greater than the Rent and the Non-Rent Payments, Authority shall not be deemed to have thereby accepted a surrender of the Premises, and GTUSA shall remain liable for all Rent, Non-Rent Payments, and all other payments due under this Agreement, and for all damages suffered by Authority because of GTUSA's default of this Agreement, which are not recovered by Authority in re-letting the Premises.

(b) Declare this Agreement to be terminated, and null and void, and re-enter upon and take possession of the Premises, whereupon the Term hereof, and all right, title and interest of GTUSA hereunder and in the Premises and the Port Terminal Facilities, shall end. Such termination shall be without prejudice to Authority's right to collect from GTUSA any Rent, Non-Rent Payments, or other payments hereunder which accrued prior to such termination, together with all damages suffered by Authority because of GTUSA's default of this Agreement prior to the date of such termination.

(c) Accelerate the Rent due for the remainder of the Term, and collect from GTUSA Rent for the remainder of the Term, accrued Non-Rent Payments pending re-letting, damages suffered by Authority because of GTUSA's default, Authority's costs of re-letting, and (whether at trial or on appeal) Authority's reasonable legal fees (collectively, the "**Recoupments**"), such collection to be subject to Authority's obligation to return such portions of the Rents as Authority may be paid from a party(ies) re-letting the Premises for such period that Rent was collected from GTUSA.

(d) Exercise any and all legal and equitable rights and privileges that Authority may have under Law.

14.3 **Repossession Not Necessarily Termination.** Re-entry or retaking possession

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of the Premises by Authority shall not be construed as an election on its part to terminate this Agreement, unless a written notice of such intention is given to GTUSA. Authority's pursuit of any remedy herein provided shall not constitute a forfeiture or waiver of any Rent, Non-Rent Payments, or other monetary obligations of GTUSA hereunder, or of any damages accruing to Authority by reason of any violations of any of the terms, provisions and covenants herein contained.

14.4 Authority Consents; Related Disputes. Whenever Authority's consent or approval is expressly or implicitly required by any provisions of this Agreement, the consent or approval may be granted or withheld in the Authority's sole and absolute discretion unless otherwise specifically stated in such provisions. Further, and notwithstanding anything to the contrary contained in this Agreement, if any provision expressly or implicitly obligates the Authority not to unreasonably withhold, delay or condition its consent or approval, an action for declaratory judgment or specific performance will be GTUSA's sole right and remedy in any dispute as to whether the Authority has breached such obligation.

Article XV

INSPECTION

GTUSA covenants and agrees that Authority, by and through its duly authorized officers, agents, and representatives, shall have the right (during GTUSA's normal business hours, upon reasonable prior notice except in emergencies, and for any reasonable purpose) to go upon and inspect the Premises and the facilities thereon while (at GTUSA's sole option and expense) accompanied by GTUSA's authorized personnel. In the event of an emergency that Authority reasonably believes to threaten the security of Port Canaveral, or the health or safety of any individual or damage to property, or in the event Authority or an Environmental Regulator reasonably believes that GTUSA has breached an environmental covenant of this Agreement or an Environmental Law or Environmental Regulation, Authority may enter the Premises after attempting to notify the GTUSA via the GTUSA's emergency telephone number on record with Authority.

Article XVI

WAIVER

Authority's waiver in one or more instances of any default hereunder by GTUSA, or any extension of time granted in one or more instances by Authority to GTUSA for any purpose whatsoever, shall not constitute a waiver of any of the provisions or terms of this Agreement, or of any default thereafter occurring, whether of the same or a similar nature. The receipt by Authority of Rent, Non-Rent Payments, or of any other payment required to be made by GTUSA, or any part thereof, shall not be a waiver of any other Rent, or Non-Rent Payments or other payments when due, nor shall such receipt, notwithstanding Authority's knowledge of GTUSA breach of or default under this Agreement, operate as or be deemed to be a waiver of such breach or default. In any event, it is hereby specifically agreed that no waiver by Authority of any of the provisions hereof, or any of Authority's right, remedies, privileges or options hereunder, shall be deemed to have been made unless made by Authority in writing.

Article XVII

FORCE MAJEURE

Neither Authority nor GTUSA shall be deemed to be in breach or default of this Agreement if either Party is prevented from performing any of its obligations hereunder by reason of Force Majeure, including strikes, boycotts, shortages of materials, labor disputes, embargoes, shipwrecks or obstructions to navigation, acts of God (including hurricanes and other severely inclement weather conditions), acts of terrorists or other public enemies, acts of superior Governmental Authority, floods, riots, rebellion, or any other similar circumstances or other circumstances beyond such Party's reasonable control, and for which a Party whose performance hereunder is affected thereby is not reasonably responsible, and which is not within such Party's control. If the Port Terminal Facilities or substantially all thereof cannot be put to its normal uses contemplated by this Agreement, and the operations of those Facilities are essentially precluded by reasons of force majeure for at least thirty (30) consecutive days, and the Parties cannot agree on terms and conditions necessary for the continuance of this Agreement within a one hundred eighty (180) day period immediately following the thirty (30) day period of nonuse, GTUSA may cancel this Agreement in its entirety without penalty upon thirty (30) days' written notice.

If a Force Majeure occurs, the Party affected thereby (if not both of the Parties), as immediately as reasonably practicable under the circumstances, shall either have its representatives meet with the other Party to confer about the situation or, if such a meeting cannot be promptly arranged, notify the other Party stating the details of the Force Majeure, the estimated financial consequences thereof, and the measures and efforts made and to be made by the Party affected thereby to mitigate and overcome the effects of the Force Majeure. If a Force Majeure occurs, and both of the Parties are affected thereby, then, as immediately as reasonably practicable under the circumstances, the Parties shall have their respective representatives be in telephone contact and meet with each other as often as necessary to confer about and provide consistent updates regarding the situation and recovering at the earliest practicable time from the effects of the Force Majeure and proceeding to the resumption of normal operations.

Article XVIII

CONFIDENTIALITY

To the extent, if any, not otherwise required by Law with respect to either or both of the Parties, and being particularly cognizant of both the publication by FMC of agreements like this one after being filed for FMC review, and Authority being a public agency subject to extensive disclosure obligations under laws of the State of Florida regarding agreements like this one as public records, neither Party shall during the Term of this Agreement (except in the proper performance of its obligations hereunder) or at any time after its expiry or termination, disclose to any person the terms of this Agreement, or use for any purpose any information which is marked private and/or confidential when received by a Party, or which relates to the other Party and/or the terms of this Agreement, and/or by its nature is reasonably ascertainable as being private and/or confidential. The foregoing restrictions shall not apply to any disclosure made with the prior written consent of the other Party, or which was already known by the recipient Party prior to disclosure by the disclosing Party, or which is, or comes to be, in the public domain without fault of the recipient Party, or which is disclosed by the recipient Party to its professional advisers, or financial institutions or their representatives, or as required by Law or

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by the rules or regulations of any Governmental Authority having jurisdiction over the recipient Party or the subject matter of this Agreement or any part hereof. Notwithstanding the foregoing, the Parties shall cooperate on making public announcement of this Agreement on the Effective Date.

Article XIX

ATTORNEY'S FEES AND COSTS

In any litigation arising out of this Agreement, the prevailing Party shall be entitled to reimbursement of all of its costs and expenses reasonably incurred, including pre-suit costs and legal fees (at trial and on appeal).

Article XX

AMERICANS WITH DISABILITIES ACT

20.1 Compliance.

GTUSA shall not do, and shall not permit any person within GTUSA's control to do, any act or thing in or upon the Premises or its improvements that will invalidate or be in conflict with the certificate of occupancy for the improvements or violate any requirements of any legally constituted public authority that may be in effect from time to time, including, without limitation, applicable terms of the Americans with Disabilities Act of 1990, as amended, ("**ADA**"), each as modified and supplemented from time to time to the extent that such are applicable to GTUSA, the Premises or its improvements (individually and collectively, "**Requirements**").

20.2 Alterations.

GTUSA shall, at its own expense, take all action, including any required alterations necessary to comply with all Requirements, made necessary by reason of GTUSA's use or occupancy of the Premises and its improvements. With regard to the physical structure of the improvements, GTUSA agrees to use good faith and due diligence to undertake those actions that are "**readily achievable**" (as such term is defined in the ADA) in order to attempt to bring the physical structure in compliance with applicable Requirements.

20.3 Indemnification.

If it is determined that, for any reason, GTUSA, the Premises or its improvements are subject to the Requirements and not in compliance with any Requirement, or if because of any subsequent Requirements or interpretations of the Requirements, additional changes to the Premises or its improvements are necessary to comply with the Requirements, then GTUSA acknowledges and agrees that Authority has and shall have no obligation or liability whatsoever to GTUSA, or to anyone claiming by or through GTUSA, regarding any failure of the Premises or its improvements or the activities thereon to comply with the Requirements. Further, if Authority is joined in any action regarding the failure of the Premises or its improvements to comply with any Requirements for which it is GTUSA's responsibility to so cause the Premises or its improvements to comply, GTUSA shall defend, indemnify and hold Authority, its officers, directors, employees, and agents harmless respecting such action and any claims, awards, damages or costs relating thereto.

20.4 Notices.

Within ten (10) days after receipt, Authority and GTUSA shall advise the other party in writing, and provide the other with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises or its improvements; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or its improvements; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises or its improvements.

Article XXI

HOLDING OVER

The failure of GTUSA to surrender the Premises on the date provided herein for the expiration of the Term of this Agreement or any renewal thereof (or at the time this Agreement may be terminated otherwise by Authority) and the subsequent holding over by GTUSA, with or without the consent of Authority, shall result in the creation of a tenancy at will at one hundred fifty percent (150%) the Rent payable at the time of the date provided herein for the expiration of this Agreement or at the time this Agreement may be terminated otherwise by Authority. The Parties agree that this provision does not give GTUSA any right to hold over at the expiration of the Term of this Agreement, either by operation of law or otherwise.

Article XXII

NOTICE

All notices or requests given to or by Authority or GTUSA hereunder shall be in writing, and sent by (a) registered or certified mail, postage prepaid, whereupon the notice or request shall be deemed to have been given or made upon receipt or refusal of receipt by any one (1) of the recipient Party's addressees hereunder; or (b) delivery (i.e., courier or other hand delivery, or overnight delivery), whereupon the notice or request shall be deemed to have been given or made on the day of delivery or refusal of delivery by any one (1) of the recipient Party's addressees hereunder. If, in accordance with the foregoing, the day of giving a notice or making a request is Saturday, Sunday, or a legal holiday in the State of Florida, the notice or request involved shall be deemed to have been given on the first calendar day thereafter which is not a Saturday, Sunday, or such a legal holiday.

All notices and requests hereunder given to Authority shall be addressed as follows:

Canaveral Port Authority
445 Challenger Road, Suite 301
Cape Canaveral, FL 32920
Attn.: Chairman, Board of Commissioners

and

Canaveral Port Authority
445 Challenger Road, Suite 301
Cape Canaveral, FL 32920
Attn.: Port Director

EXECUTION VERSION

and

Canaveral Port Authority
445 Challenger Road, Suite 301
Cape Canaveral, FL 32920
Attn.: Port Counsel

or to such other addressees (maximum of three) as Authority may direct from time to time by written notice to GTUSA, given as provided above.

All notices and requests hereunder given to GTUSA hereunder shall be addressed as follows:

GT USA LLC
c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

and

GT USA LLC
c/o Donald Pierce Moore
Partner, Reed Smith LLP
Level 14, Al Sila Tower
PO Box 46904
Abu Dhabi, UAE

or to such other addressees (maximum of three) as GTUSA may direct from time to time by written notice to Authority, given as provided above.

Article XXIII

JURISDICTION AND VENUE

GTUSA, by entering into this Agreement, hereby acknowledges that it is doing business in the State of Florida. In the event GTUSA fails or ceases to have a registered agent or resident agent for service of process located in the State of Florida, then GTUSA shall be deemed to constitute and appoint the Secretary of State of Florida as its agent for the service of process in any civil action begun in the courts of the state against GTUSA. The execution of this Agreement by GTUSA is signification of its agreement that process against it which is so served is of the same validity as if served personally on GTUSA. It is further agreed that venue for all disputes hereunder lies exclusively in the federal and state courts in and for Brevard County, Florida, and GTUSA hereby expressly waives any right it has to object to the venue of any action commenced in any such courts for any reason, including, but not limited to, inconvenience.

Article XXIV

WAIVER OF JURY TRIAL

Authority and GTUSA recognize that this Agreement involves relatively complex business transactions; that this Agreement is lengthy, and its terminology technical in nature and, thus, may be especially susceptible to misinterpretation; and that, in the event of any dispute as to rights and obligations hereunder, a judge, rather than a jury, would be the most efficient and qualified trier of fact. Accordingly, the parties are each desirous of waiving their respective rights to jury trial with respect to any litigation or other legal proceedings relating to or arising out of, or in connection with this Agreement or its subject matter, as follows:

EACH PARTY, BY THE EXECUTION HEREOF, DOES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE, FOR THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, ANY RIGHT WHICH EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION, ACTION, SUIT OR PROCEEDING (WHETHER AT LAW OR IN EQUITY) BASED ON THIS AGREEMENT, ANY AMENDMENT OR ADDITION TO THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY OR THEIR RESPECTIVE COMMISSIONERS, OFFICERS, PRINCIPALS, EMPLOYEES, AGENTS OR REPRESENTATIVES IN CONNECTION HERewith, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE. NEITHER PARTY SHALL SEEK TO CONSOLIDATE ANY SUCH LITIGATION, ACTION, SUIT OR PROCEEDING WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THIS PROVISION IS A MATERIAL AND MUTUAL INDUCEMENT TO ENTERING INTO THIS AGREEMENT.

If for any reason the foregoing waiver is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, so that any litigation or other legal proceedings relating to or arising out of, or in connection with this Agreement or its subject matter, is in fact conducted before an impaneled jury, each Party agrees not to seek to have the foregoing waiver or the existence thereof admitted into evidence, and this entire Article shall be excised here from when this Agreement may be presented to such jury.

Article XXV

EMINENT DOMAIN

25.1 Definitions.

"Award" means all compensation, sums, or anything of value awarded, paid, or received on a total or partial Condemnation.

"Condemnation" means (1) the exercise of any governmental power, whether by legal proceedings or otherwise, by a Condemnor, and (2) a voluntary sale or transfer by Authority to any Condemnor, either under threat of condemnation or while legal proceedings for Condemnation are pending.

"Condemnor" means any public or quasi-public authority, or private corporation, having

the power of Condemnation.

"Date of Taking" means the date the Condemnor has the right to possession of the property being taken by Condemnation.

25.2 Effect of Agreement.

If there is any Condemnation of all or any part of the Premises or its improvements or of which materially interferes with substantially all GTUSA's operations on the Premises, GTUSA shall have the election to terminate this Agreement effective upon the Date of Taking, but otherwise this Agreement shall remain in full force and effect, with a reduction in Rent proportionate to the portion of the Premises or interest (which term shall include GTUSA's leasehold interest) taken. If there is a Condemnation of all of the Premises, either Party shall have the election to terminate this Agreement upon the Date of Taking. If there is a Condemnation of a part of the Premises, so that the remaining part of the Premises is, in GTUSA's reasonable discretion, unworkable for GTUSA's continued operations in their normal course as existed prior to the Condemnation, then GTUSA shall have the election to terminate this Agreement upon the Date of Taking. The elections to terminate this Agreement as provided herein, shall be exercised, if at all, within sixty (60) days after the nature and extent of the Condemnation is determined; otherwise, this Agreement shall remain in full force and effect. If there is a Condemnation of the Premises for temporary use, then this Agreement will continue in full force and effect, and GTUSA will continue with GTUSA's obligations under this Agreement, except to the extent compliance is rendered impossible by reason of the Condemnation, with an equitable reduction in Rent.

25.3 Award - Distribution.

The Award shall belong to and be paid to Authority and/or GTUSA as their interest (including GTUSA's leasehold interest) may appear, except that GTUSA may make a separate claim for any business damages to which it is entitled to under Law.

Article XXVI

ABSOLUTION FOR GOVERNMENTAL FUNCTIONS

Except to the extent caused by Authority's failure to perform its obligations under this Agreement in connection with any such liability, cost, expense or damage, GTUSA agrees to and does hereby absolve and release Authority, its Commissioners, officers, employees, and agents from any and all liability, damages, costs, or expenses, including attorneys' fees, arising from any reasonable act, event, decision or omission involving a governmental policy, program, function, or objective of the Port Rules, including the scheduling of pier reservations and other Port facilities, the enforcement of Port Rules, and the issuance of licenses and permits.

Article XXVII

DISCRIMINATION PROHIBITED

GTUSA shall not, because of the race, color, sex, religious creed, or national origin of any individual, refuse to hire or employ such individual, bar or discharge from employment such

EXECUTION VERSION

individual, or otherwise discriminate against such individual, with respect to compensation, tenure, terms, conditions, or privileges of employment. No person, on the ground of race, color, sex, religious creed, or national origin, shall be excluded from participation in or denied the benefits of, or otherwise be subjected to discrimination in, the use of the Premises. In addition, no person shall be excluded from participation in, or denied the benefits of, furnishing services or materials or constructing improvements to the Premises, or otherwise be subjected to discrimination in such endeavors.

Article XXVIII

COMPLETE AGREEMENT

This Agreement, including all Exhibits and Addenda attached hereto, and other documents referenced herein, contain the complete agreement of the Parties with reference to the leasing of the Premises. No waiver of any breach of covenants herein shall be construed as a waiver of the covenant itself or any subsequent breach thereof.

Article XXIX

GENERAL PROVISIONS

29.1 Radon Gas.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to people who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health Unit. Each Party hereto disclaims any liability for any health risks incurred by the other, its employees, and/or its invitees as a result of, or claimed to be a result of, radon at the Premises.

29.2 Condition of the Premises.

GTUSA acknowledges that Authority has not made any representation or warranty with respect to the condition of the Premises, or with respect to the suitability of the Premises for the conduct of GTUSA's business activities. Except as otherwise expressly provided herein, Authority has not agreed to undertake any modification, alteration, or improvement to the Premises. The taking of possession of the Premises by GTUSA shall conclusively establish that the Premises are at such time in satisfactory condition. GTUSA understands and agrees that Authority is furnishing the Premises to GTUSA in "**AS IS**" condition, without any warranty, express or implied, of any kind, all such warranties being hereby expressly disclaimed by Authority.

29.3 Conditions and Covenants.

All of the provisions of this Agreement shall be deemed covenants running with the land, and construed to be "**conditions**" as well as "**covenants**" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

29.4 Time of Essence.

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Time is of the essence of this Agreement, and of each provision hereof.

29.5 Headings and Captions.

Headings and captions used herein are for convenience only, are not to be deemed parts of this Agreement, and shall not be held to limit the substantive terms and provisions of this Agreement.

29.6 Computation of Time.

The term “**business day**” as used herein means a day that is not a Saturday, Sunday or legal holiday in the State of Florida. Subject to the Notice provisions herein regarding the effective date of notices, demands and requests, the time in which any act provided by this Agreement is to be done is computed by excluding the first day and including the last, unless the last day is not a business day, in which event it is extended to the next business day.

29.7 Partial Invalidity.

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

29.8 Relationship of Parties.

Nothing contained in this Agreement shall be deemed or construed by the Parties or by any person to create the relationship of principal and agent, or of partnership, joint venture or any association between Authority and GTUSA, other than the relationship of landlord and tenant between independent contractors.

29.9 Interpretation and Definitions.

The language of this Agreement shall in all cases be simply construed according to its fair meaning, and not strictly for or against Authority or GTUSA.

29.10 Modifications.

This Agreement is not subject to amendment or modification except in writing signed by Authority and GTUSA.

29.11 FMC Review.

This Agreement is subject to and contingent upon FMC review without its disapproval.

29.12 Binding Effect.

This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

29.13 Governing Law.

This Agreement shall be construed according to the laws of the State of Florida and the United States of America.

29.14 Consents and Cooperation.

The Parties intend that, except as otherwise expressly provided herein, whenever a Party's cooperation, consent or approval is required by any provision of this Agreement, such cooperation, consent or approval will not be unreasonably withheld, delayed or conditioned. Notwithstanding anything to the contrary contained in this Agreement, if any provision hereof obligates a Party to reasonable cooperation or not to unreasonably withhold, delay or condition its consent or approval, then, in any dispute as to whether such an obligation has been breached by one Party, an action for declaratory judgment and/or specific performance will be the other Party's sole right and remedy. For the avoidance of doubt, in any such instance, neither Party shall have a right to money damages.

29.15 Memorandum of Agreement.

Upon the occurrence of the Effective Date, the Parties hereby agree to enter the Effective Date into, and to duly execute, the Memorandum of Marine Terminal Lease and Operating Agreement in the form of **Exhibit G** hereof. Once executed, that Memorandum shall be delivered to Authority for recordation in the public records of Brevard County, Florida. Further, the Parties agree to enter into and record at their joint expense amendments of and supplements to the Memorandum, when doing so would be reasonably customary in Florida and either Party reasonably requests the same of the other Party, including when the Premises may be expanded or otherwise change; when GTUSA may achieve exclusivity rights to use and occupy Pier 5; when such exclusivity rights may terminate; and when the First Renewal Term and Second Renewal Term may commence. Further, upon the termination or expiration of the Term, the Parties agree to promptly enter into and record a notice that such termination or expiration has occurred; however, should GTUSA fail to execute and deliver such a notice to Authority within thirty (30) days after Authority delivers to GTUSA an instrument stating such notice, then GTUSA hereby irrevocably appoints Authority as GTUSA's attorney-in-fact to execute and record such notice on GTUSA's behalf.

29.16 Currency of Payments.

GTUSA agrees to make all payments in United States Dollars.

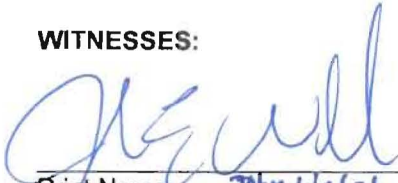
[Signature Pages Follow]

EXECUTION VERSION

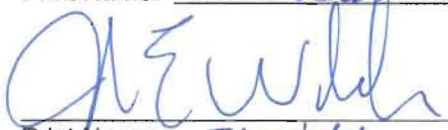
IN WITNESS WHEREOF, the Parties have executed this Agreement.

Signed, sealed and delivered
in the presence of:

WITNESSES:


Print Name: John Walsh


Print Name: Milton VescoVacci


Print Name: John Walsh


Print Name: Milton VescoVacci

CANAVERAL PORT AUTHORITY,
a body politic and corporate existing under and by
virtue of the laws of the State of Florida

By: 
Print Name: Thomas W. Weinberg, Chairman


Date: June 23, 2014

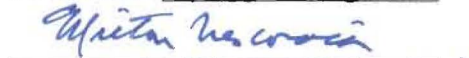
ATTEST: 
Frank E. Sullivan, Secretary/Treasurer

Date: June 23, 2014

Signed, sealed and delivered
in the presence of:

WITNESSES:


Print Name: Peter Alexander Richards


Print Name: Milton VescoVacci

GT USA LLC,
a Florida limited liability company

By: 
Peter Alexander Richards, Manager

Date: June 23, 2014

EXECUTION VERSION

EXHIBIT A
INITIAL PREMISES

EXHIBIT A

CANAVERAL PORT AUTHORITY
PN: 2014-03/480543
BY: LB CHK: TM
DATE: June 10, 2014
REV: June 22, 2014 based on survey

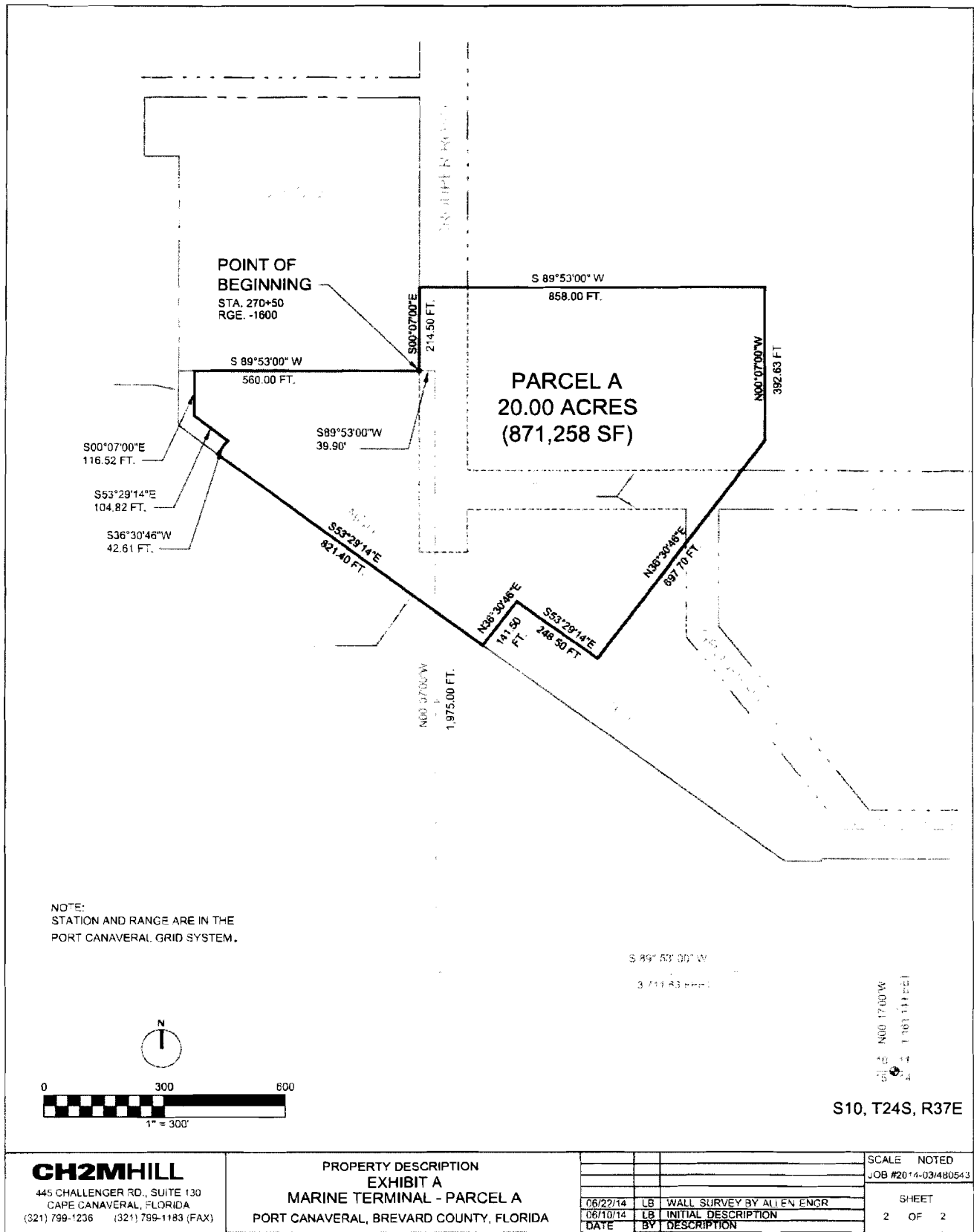
PROPERTY DESCRIPTION
FOR
MARINE TERMINAL – PARCEL A

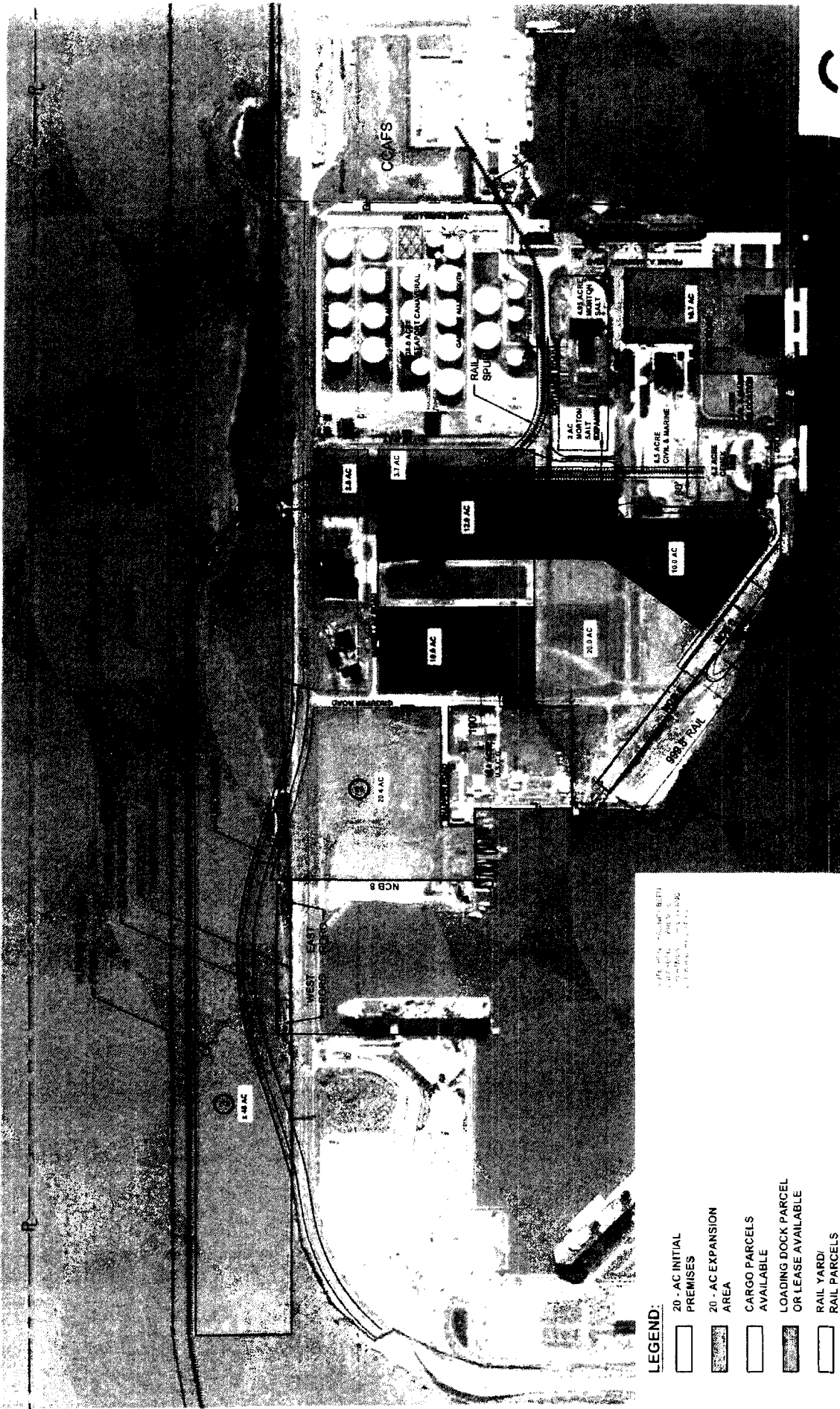
A parcel of land in Section 10, Township 24 South, Range 37 East, Brevard County, Florida; being more particularly described as follows.

Commence at the Southeast corner of Section 10, said Township and Range, thence North 00° 17' 00" West, along the East boundary of said Section 10, a distance of 1,161.14 feet; thence South 89° 53' 00" West, a distance of 3,711.63 feet; thence North 00° 07' 00" West, a distance of 1,975.00 feet; thence South 89° 53' 00" West, a distance of 39.90 feet to the Southeast corner of the United States Coast Guard Station as described in deed recorded in Official Records Book 1637, Page 824 of the Public Records of Brevard County, Florida and CPA Station 270+50, Range -1600, Port Canaveral Grid System and the POINT OF BEGINNING.

From said POINT OF BEGINNING, thence continue S89°53'00"W, along the South line of said United States Coast Guard Station, a distance of 560.00 feet; thence S00°07'00"E, a distance of 116.52 feet; thence S53°29'14"E, a distance of 104.82 feet; thence S36°30'46"W, a distance of 42.61 feet, to the Southwesterly face of a concrete bulkhead; thence S53°29'14"E, along said concrete bulkhead, a distance of 821.40 feet; thence N36°30'46"E, a distance of 141.50 feet; thence S53°29'14"E, a distance of 248.50 feet; thence N36°30'46"E, a distance of 697.70 feet; thence N00°07'00"W, a distance of 392.63 feet; thence S89°53'00"W, a distance of 858.00 feet, to the East line of said United States Coast Guard Station; thence S00°07'00"E, along said East line, a distance of 214.50 feet, to the POINT OF BEGINNING.

Said parcel containing 20.00 acres (871,258 square feet) more or less, is subject to drainage and utility easements and access easements to the wharf, mooring fixtures, and crane rail system for maintenance by the Canaveral Port Authority.





LEGEND:

- 20 - AC INITIAL PREMISES
- 20 - AC EXPANSION AREA
- CARGO PARCELS AVAILABLE
- LOADING DOCK, PARCEL OR LEASE AVAILABLE
- RAIL YARD/ RAIL PARCELS
- FUTURE POND



NORTH CARGO DEVELOPMENT CONCEPT PLAN

SCALE: 1" = 500'



CH2MHILL
DATE: 4/18/14
VERSION: 4



REV: N/A BASED ON LEGAL DESCRIPTIONS

EXHIBIT B

AUTHORITY CAPITAL IMPROVEMENTS

In addition to North Cargo Berths 5&6, Authority will be constructing the asphalt pavement, security/operational lighting, drainage collection and conveyance systems, offsite storm water management system, potable water, sanitary sewer force main connection and electrical service to the locations shown for the maintenance and administration buildings, fire protection, and perimeter fencing/gates as detailed below:

1. Heavy-duty asphalt pavement: 6" type S-P12.5 asphaltic concrete with PG 76-22 binder (3-2" layers), 12" limerock base with LBR 100 OR 10" soil-cement base with unconfined compressive strength of 1350 psf (6.6T/m2), 12" stabilized subbase, and proof rolled subgrade. (Note: Authority will look into the feasibility of providing specifications to allow for 6-high stacking in RTG areas as agreed to jointly in the Approved Plans and Authority recognizes that capacity of the facility may be reduced if this is not provided.)

2. Lighting: New 100' steel light poles on concrete foundations will be installed to light container operations. Light poles will be optimally located to provide an even illumination of light while minimizing pole counts and energy consumption. Two light levels, one a 'security' level and two a higher 'operational' light levels will be available for the terminal operator. Metal Halide and LED light fixtures that are compliant with the Ports Exterior Light Management Plan will be used as well as lighting controls with automatic and manual overrides. FAA lights will be installed on top of the light poles if determined to be needed. Lightpoles will be fitted with space to have wireless access points incorporated at a later date by the leasee. Layout to be agreed upon during final plan discussions. Electrical conduit between light poles will be provided with additional space for cat 5 or fiber cables between them.

3. Drainage: A 24" interior width trench drain across the berth will collect runoff from a 206-ft width of pavement just beyond the light poles. The trench drain will connect to a master trunk line which conveys the runoff to an offsite stormwater management system (wet detention pond) which treats the pollutants as required by the State of Florida. A series of catch basins and storm sewers will be provided throughout the remainder of the terminal site and will tie to this same trunk line and pond. The site collection system is designed to capture runoff from the 10-yr, 24-hr storm event. The pond ultimately discharges to the Canaveral Harbor.

4. Fire Protection: Fire hydrants and water mains will be provided throughout the site per the Cape Canaveral Volunteer Fire Department (CCVFD) and City of Cocoa requirements. In an effort to minimize impacts to operations, the majority of the fire hydrants will be clustered with the high mast lighting and surrounded by bollards for protection.

Exhibit B

Page 1

EME ACTIVE-559139228.1-DMOORE-768835-00001EME ACTIVE-559185200.1-DMOORE-768835-0000

5. Fencing/Gates: An 8'-foot high galvanized chain link fence will be provided around the site where fencing does not already exist. Existing fencing includes the fence and gates across Grouper Road at the existing security booth and the fence along the south property line of the USCG station. Gates will be provided across the berth at the lease line. All fencing must comply with ISPS/USCG/TSA/CTPAT requirements.

6. CB 5 & 6 Berth General Characteristics :

Deep bulkhead wall with relieving platform; 1872 foot long berth length; -39 foot (MLLW) present berth depth with the capability to be deepened to -43 feet (MLLW). Apron design live load is 1200 PSF outside of the STS Crane footprints, reduced to 300 PSF under cranes when operating. Mobile harbor design crane: Gottwald G-HMK 4406 with 8 axle set and 16m² outrigger pads, 40 metric ton picking load at 33m radius.

STS Crane Rails: 90 foot gage with waterside rail setback of 14.75 feet; 980 feet long rails between crane stops; 3 sets of tie-downs, 2 sets of intermediate storm pin positions. Waterside rail elevation: +11.08 feet (MLLW).

STS Crane rails designed for wheel loads and tie-down loads from Kocks Crane Serial Number 73897/18003 and 73894/18006, with a load increase of 20% for future larger cranes.

Authority will provide the facilities needed to electrify the cranes at Authority's election. (Note: Authority will look into the feasibility and cost to provide a cable trench for up to 4 cranes and turnover pits at berth 6 prior to paving, but Authority is not committing to providing a cable trench.)

Design Vessels: 69,645 DWT

Fenders: 67.4 tonne-m, 200 kN/m² maximum hull pressure

On-dock water hydrants

7. Berth face mooring bollards and upland shore dolphin bollards: 100 metric tons any angle seaward up to an angle of 30 degrees from horizontal. Mooring bollards are provided at 22.7 meter (75 foot) intervals.

8. Initial power requirements to supply the 2 current STS cranes, above lighting, fire pumps, and current reefer points on premises.

EXECUTION VERSION

9. Conduit in place for future addition of 2 x STS, electrification of RTG's, and installation of reefer racks.
10. Basic minimum level CCTV system for Port Security off Port Fiber Network.
11. Authority and GTUSA will work jointly and in coordination to develop and satisfy minimum requirements of US Customs or other required governmental facilities.

In any event, improvements by Authority EXCLUDE the following:

1. Buildings and building utility services.
2. Electrical service including substation for additional power needs such as electrifying the STS cranes, ERTGs, and reefers.
3. Oil-water separator, tanks, and other equipment related to crane maintenance and fueling operations, truck scales.
4. Pavement markings and signage.
5. Guard house at gate (Existing north guard booth will be turned over for use).

EXHIBIT C
EXPANSION AREA

EME_ACTIVE-559388388 2-DMOORE-768835-00001 06/23/2014

EXHIBIT C

CANAVERAL PORT AUTHORITY
PN: 2014-03/480543
BY: LB CHK: TM
DATE: June 10, 2014
REV: June 22, 2014 based on survey

PROPERTY DESCRIPTION
FOR
MARINE TERMINAL – PARCELS B&C

Two parcels of land in Section 10, Township 24 South, Range 37 East, Brevard County, Florida; being more particularly described as follows.

Commence at the Southeast corner of Section 10, said Township and Range, thence North 00° 17' 00" West, along the east boundary of said Section 10, a distance of 1,161.14 feet; thence South 89° 53' 00" West, a distance of 3,711.63 feet; thence North 00° 07' 00" West, a distance of 875.00 feet to POINT #1 being located at CPA Station 270+10.10, Range -500;

PARCEL B:

From said POINT #1, thence North 89° 53' 00" East, a distance of 1,052.98 feet to the POINT OF BEGINNING OF PARCEL B, located at Station 259+57.12 and Range -500 in the Port Canaveral Grid System.

From said POINT OF BEGINNING OF PARCEL B, North 00° 07' 00" West, a distance of 1092.00 feet; thence South 89° 53' 00" West, a distance of 234.88 feet; thence South 00° 07' 00" East, a distance of 170.13 feet; thence South 36° 30' 46" West, a distance of 697.70 feet; thence South 53° 29' 14" East generally parallel to the North Cargo Berth 5 (NCB5) bulkhead wall, a distance of 606.66 feet; thence North 89° 53' 00" East, a distance of 164.30 feet to the POINT OF BEGINNING OF PARCEL B.

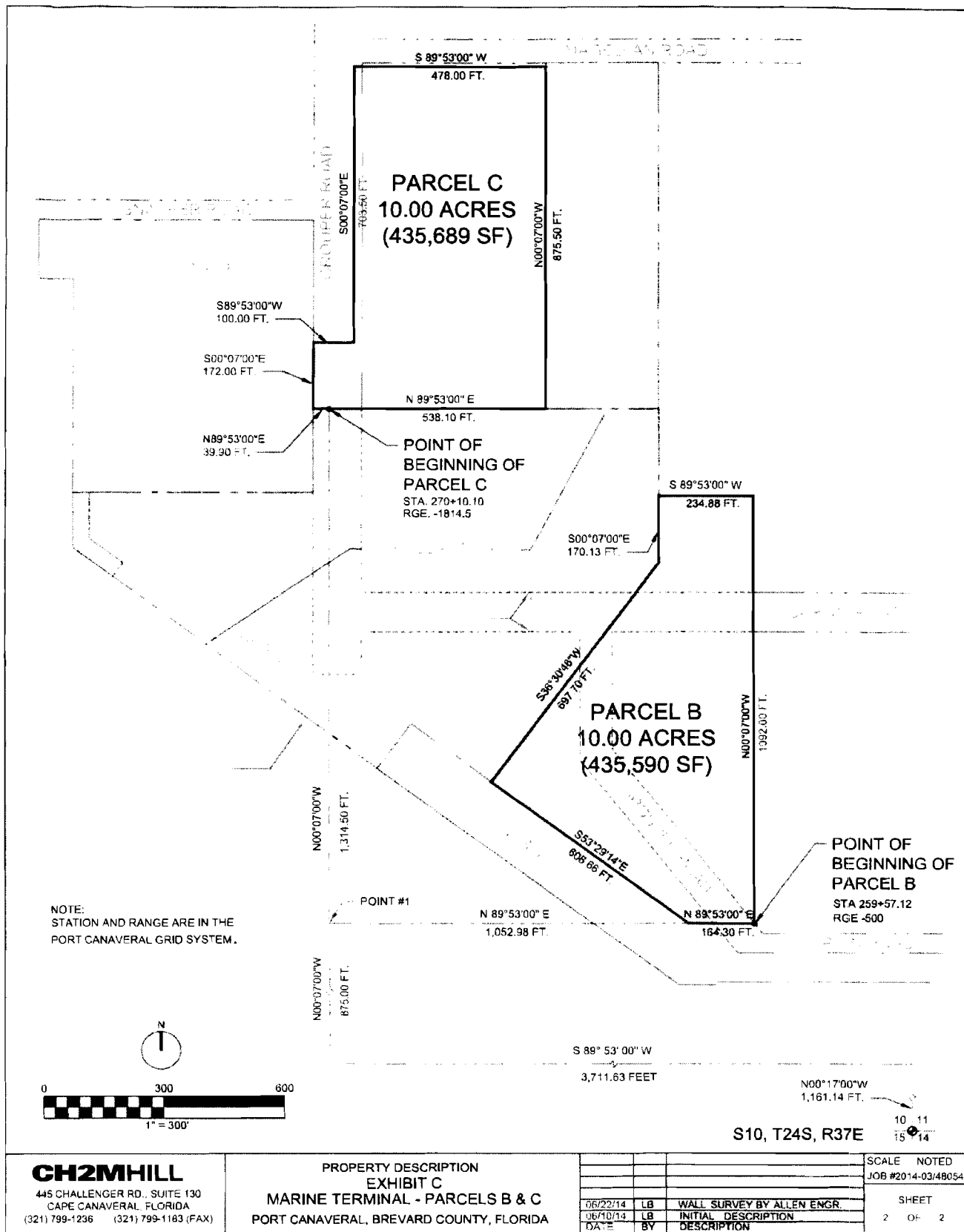
Said PARCEL B containing 10.00 acres (435,590 square feet) more or less, is subject to drainage and utility easements.

PARCEL C:

From said POINT #1, thence continue North 00° 07' 00" West, a distance of 1,314.50 feet to the POINT OF BEGINNING OF PARCEL C, located at Station 270+10.10 and Range -1814.50 in the Port Canaveral Grid System.

From said POINT OF BEGINNING, North 89° 53' 00" East, a distance of 538.10 feet; thence North 00° 07' 00" West, a distance of 875.50 feet; thence South 89° 53' 00" West, a distance of 478.00 feet; thence South 00° 07' 00" East, a distance of 703.50 feet; thence South 89° 53' 00" West, a distance of 100.00 feet; then South 00° 07' 00" East, a distance of 172.00 feet; thence North 89° 53' 00" East, a distance of 39.90 feet to the POINT OF BEGINNING.

Said PARCEL C containing 10.00 acres (435,689 square feet) more or less, is subject to drainage and utility easements.



CH2MHILL
445 CHALLENGER RD., SUITE 130
CAPE CANAVERAL, FLORIDA
(321) 799-1236 (321) 799-1183 (FAX)

PROPERTY DESCRIPTION
EXHIBIT C
MARINE TERMINAL - PARCELS B & C
PORT CANAVERAL, BREVARD COUNTY, FLORIDA

06/22/14	LB	WALL SURVEY BY ALLEN ENGR.
06/10/14	LB	INITIAL DESCRIPTION
DATE	BY	DESCRIPTION

SCALE	NOTED
JOB #2014-03/480543	
SHEET	
2 OF 2	

EXHIBIT D

THE TWO (2) CRANES PURCHASED BY AUTHORITY

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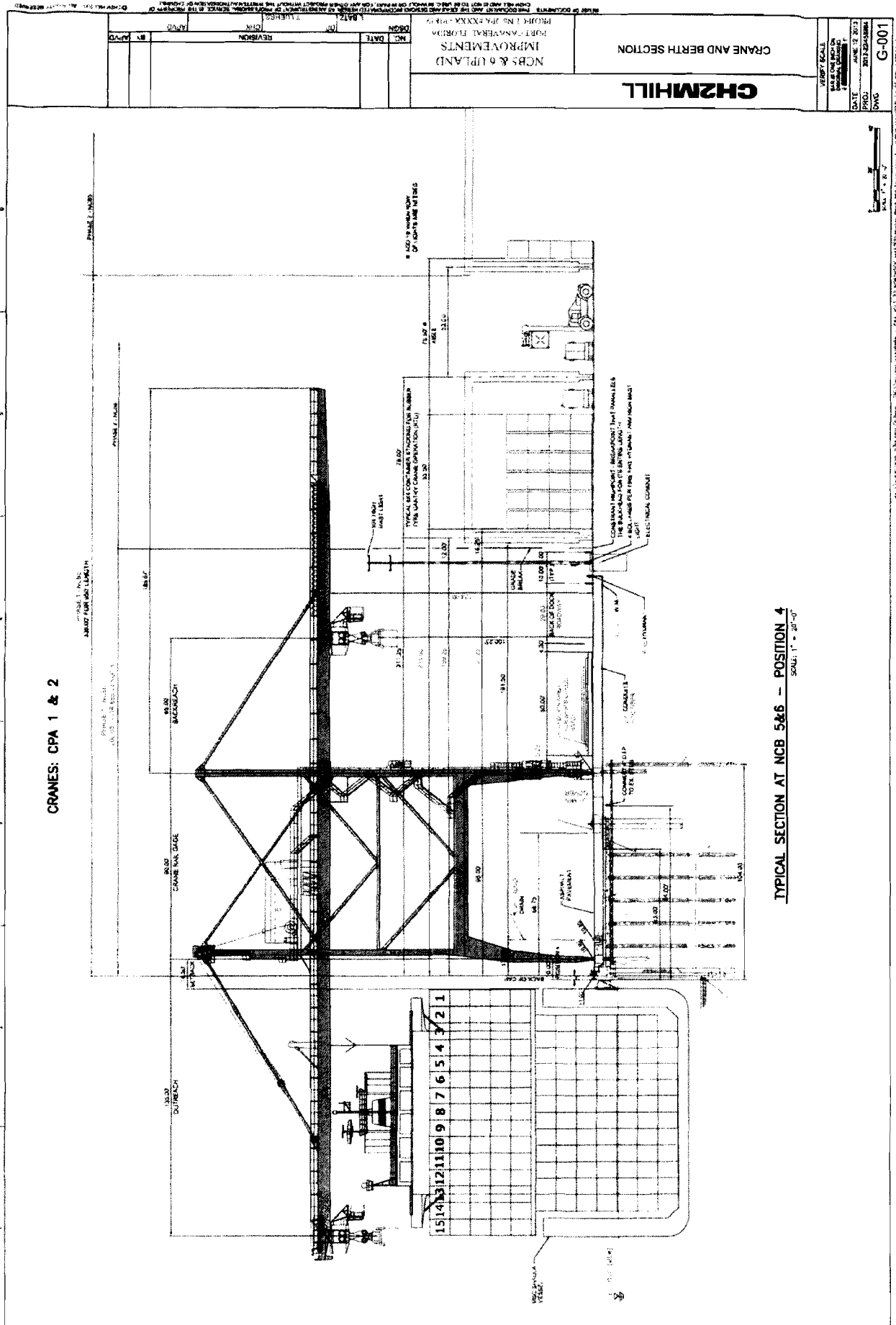


EXHIBIT E

SERVICES BY GTUSA

GTUSA shall perform functions customarily performed by a containerized cargo terminal operator in comparable seaports, including the items listed below, in full accordance with Good Industry Practice, the terms of this Agreement, and Authority's Port Tariffs published from time to time, *provided, however*, that GTUSA shall not have any exclusivity rights for the provision of the items listed below in the Port except in connection with containerized cargoes handled by GTUSA pursuant to this Agreement:

- (a) providing suitably responsible and qualified employees and/or third party independent contractors for the due performance of terminal operations, and in such manner as will optimize the prospects of attracting and maintaining customers of the Port Terminal Facilities and of fostering the growth of new commerce and cargo throughput in the Port;
- (b) allocating piers and determining vessel movements;
- (c) stevedoring, including handling, loading and unloading, of containerized cargo to or from vessels, truck or rail, and checking, storing, bagging, re-coopering, segregating, receiving and delivery of containerized cargo moving through the Port Terminal Facilities;
- (d) arranging for and carrying out transportation services to and from the dockside and the storage area in the Port Terminal Facilities;
- (e) distributing, collecting or releasing containerized and non-containerized cargo and/or containers to or from the Port Terminal Facilities;
- (f) warehousing, including container stripping and stuffing;
- (g) delivering goods from the Port Terminal Facilities to the consignee or to their duly authorized representatives;
- (h) repairing containers and equipment, including repair of damaged containers, container washing, refurbishment, survey and certification, and minor ship repair;
- (i) provide marketing, sales and commercial staff of sufficient size, experience and ability to meet and exceed the minimum TEU volumes and Throughput set forth in the Agreement;
- (j) sufficiently advertise, promote and solicit business for the Port Terminal Facilities; and
- (k) any and all other activities ancillary, conducive or related thereto as reasonably determined by GTUSA, each as approved by Authority.

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EXHIBIT F

GTUSA MINIMUM INVESTMENT SCHEDULE

Throughput (in thousands TEU per Lease Year)	Indicative Lease Years	Equipment	Amount	USD (in thousands)	USD TOTAL (in thousands)
Initial	Prior to rail or truck drayage operational	Reachstacker	2	800	2,715
		Terminal Tractors	4	360	
		ECH	1	230	
		Other Equipment (inc. IT)		1,325	
115	1-3	Reachstacker	2	800	1,100
		Other Equipment		300	
180	4-6	Reachstacker	1	400	1,020
		Terminal Tractors	4	360	
		Other Equipment		260	
225	7-9	RTG	4	8,400	10,030
		Reachstacker	2	400	
		Empty Container Handler	1	230	
		Other Equipment		1'000	
335	10-12	STS	1	8,700	13,360
		RTG	2	4,200	
		Terminal Tractors	4	360	
		Other Equipment		100	
400	13	STS	1	8,700	11,630
		RTG	1	2,100	
		Terminal Tractors	2	180	
		Other Equipment		650	
					40,000

Throughput volumes are average throughput amounts in the applicable Lease Years, 115,000 TEU being the first window after rail or truck drayage is operational.

Other Equipment includes: trailers, fork-lift trucks, spreaders, vehicles and equipment spares.

The above are required minimum investment levels, and at all times during the Term, GTUSA shall, at its own cost and expense, have sufficient equipment for the efficient performance of the Services and to meet increased demand from anticipated containerized cargo growth, at no less than the required minimum levels.

EXECUTION VERSION

Exhibit G

Memorandum of Agreement

[See Attached]

EXECUTION VERSION

Prepared by and Return to:
Thomas W. Danaher, Esq.
Gray Robinson, P.A.
401 E. Jackson Street, Suite 2700
Tampa, FL 33602

MEMORANDUM OF MARINE TERMINAL LEASE AND OPERATING AGREEMENT

THIS MEMORANDUM OF MARINE TERMINAL LEASE AND OPERATING AGREEMENT (the "**Memorandum**") is made as of this _____ day of _____, 2014, between **CANAVERAL PORT AUTHORITY**, a body politic and corporate existing under and by virtue of the laws of the State of Florida, whose mailing address is 445 Challenger Road, Suite 301, Cape Canaveral, FL 32920 (the "**Authority**"); and **GT USA LLC**, a Florida limited liability company, having a U.S. mailing address for purposes of this Agreement at c/o Corporate Services Company, 1201 Hays Street, Tallahassee, FL 32301 ("**GTUSA**").

This Memorandum is made under the following circumstances:

A. Authority is the owner of certain real property in Brevard County, Florida comprising the Canaveral Port District, also known as Port Canaveral (the "**Port**"), within which the lands described in **Exhibit A** attached hereto and incorporated herein (the "**Premises**") are located.

B. Authority and GTUSA have entered into a Marine Terminal Lease and Operating Agreement (the "**Agreement**"), executed and delivered as of June 23, 2014, subject to certain conditions subsequent set forth in the definition of Effective Date in Section 2.1 thereof, and pursuant to which, among various other matters set forth therein, Authority has leased the Premises to GTUSA.

C. While the Agreement itself is a matter of public record pursuant to Florida law, Authority and GTUSA have agreed to make and record this Memorandum for purposes of Chapter 695.01, *Florida Statutes*, to give record notice of the lease provided for in the Agreement, and the terms and provisions of the Agreement are each deemed incorporated herein and made a part of this Memorandum by reference.

NOW, THEREFORE, the parties hereby memorialize the following provisions of the Agreement, cumulative and subject to the further terms and conditions expressly provided for therein:

1. The initial term of the Agreement is twenty (20) years, commencing on _____, 201__ (the "**Effective Date**"), and ending on the calendar day immediately preceding the twentieth (20th) anniversary of that Effective Date. The Agreement makes provision for two (2) renewal terms, consecutive to the initial term, of ten (10) and five (5) years, respectively, subject to various terms and conditions set forth in the Agreement. The word "**Term**" as used herein shall refer to the aforementioned initial term and any renewal terms that occur.

2. The Agreement requires GTUSA make certain payments to Authority that include, but are not limited to, both rent and non-rent payments.

EXECUTION VERSION

3. The parties acknowledge that the Agreement makes provision for, among other matters, default, default remedies, maintenance and repair of improvements, and various restrictions upon the use of the Premises and upon certain transfers, assignments and subleases, all as more particularly stated in the Agreement.

4. This Memorandum is being recorded solely to give public record notice of the Agreement, and this Memorandum shall not be deemed an amendment or modification of the Agreement, the full terms and provisions of which are not affected hereby.

IN WITNESS WHEREOF, the undersigned parties have made this Memorandum.

Signed, sealed and delivered
in the presence of:

WITNESSES:

CANAVERAL PORT AUTHORITY,
a body politic and corporate existing under and by
virtue of the laws of the State of Florida

Print Name: _____

By: _____
Print Name: Thomas W. Weinberg, Chairman

Print Name: _____

Date: _____, 2014

Print Name: _____

ATTEST: _____
Frank E. Sullivan, Secretary/Treasurer

Print Name: _____

Date: _____, 2014

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 201____, by Thomas W. Weinberg, as Chairman of Canaveral Port Authority, a body politic and corporate existing under and by virtue of the laws of the State of Florida, pursuant to authority vested in him by Canaveral Port Authority. He is (check as applicable) [] personally known to me, or [] produced _____ as identification.

Notary Public, State of Florida At Large

Print/type name of Notary Public

STATE OF FLORIDA

EXECUTION VERSION

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by Frank E. Sullivan, as Secretary/Treasurer of Canaveral Port Authority, a body politic and corporate existing under and by virtue of the laws of the State of Florida, pursuant to authority vested in him by Canaveral Port Authority. He is (check as applicable) [☐] personally known to me, or [☐] produced _____ as identification.

Notary Public, State of Florida At Large

Print/type name of Notary Public

[SIGNATURES CONTINUED ON NEXT PAGE]

EXECUTION VERSION

Signed, sealed and delivered
in the presence of:

WITNESSES:

GT USA LLC,
a Florida limited liability company

Print Name: _____

By: _____
Peter Alexander Richards, Manager

Print Name: _____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 201____, by Peter Alexander Richards, as Manager of GT USA LLC, a Florida limited liability company, pursuant to authority vested in him by said company. He is (check as applicable) [☐] personally known to me, or [☐] produced _____ as identification.

Notary Public, State of Florida At Large

Print/type name of Notary Public

EXECUTION VERSION

**EXHIBIT A TO
MEMORANDUM OF MARINE TERMINAL LEASE AND OPERATING AGREEMENT**

LEGAL DESCRIPTION OF THE PREMISES

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